AN IMPLEMENTATION ANALYSIS OF IMMIGRATION ACT 13 0F 2002 (STUDY PERMIT): A CASE STUDY OF FOREIGN AFRICAN POSTGRADUATE PhD STUDENTS AT THE UNIVERSITY OF KWAZULU-NATAL PIETERMARITZBURG CAMPUS

BY

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ABSTRACT

Post-apartheid South Africa has experienced a sharp increase in all categories of migration. South Africa has become the destination for migrants such as asylum seekers, traders, entrepreneur as well as students. Migrants moving from one country to the other to pursue a career have become a worldwide phenomenon. There has been an increase in the number of foreign (the term "international" is also used in the literature and in this study the terms are used interchangeably) students crossing borders to study in higher education institutions. Even though foreign students could choose the more developed countries to pursue their studies, developing countries such as India and South Africa are attracting these students. The majority of foreign students who choose South Africa as their destination country are usually students from neighboring African countries such as Zimbabwe, Nigeria, Congo, Kenya, Swaziland and Lesotho. There is also a small contingent from Europe and North America.

This study aimed to investigate the experiences of foreign African postgraduate (PhD) students coming to study in South Africa particularly at the University of KwaZulu-Natal (UKZN), Pietermaritzburg (PMB) Campus. It also sought to analyse the policies which enable foreign students to study in South Africa, the challenges they face when applying for, and renewing, their study permits as well as the experiences of government and university administrators in administering foreign students' applications.

The study sought to answer the following questions:

1. What are the reasons for foreign African postgraduate (PhD) students coming to study in South Africa?
2. What are the application processes and policies for foreign African postgraduate students to study in South Africa?
3. What are the systems and structures at UKZN PMB for foreign African postgraduate students to facilitate their studies?
4. What are the challenges that UKZN PMB foreign African postgraduate students face in accessing study permits?
5. What are the experiences of UKZN administrators in dealing with foreign African postgraduate student applications?

The study used a qualitative research approach, namely, a case study. In-depth interviews were used to collect primary data from key informants comprising two assistant directors from the Department of Home Affairs, two UKZN administrators (with one being from the International Office), and 14 foreign African postgraduate (PhD) students. The latter were interviewed via two focus groups, with seven students per group. The study used thematic analysis to analyse the data. The themes were derived from the literature review and theoretical framework and were as follows: Conceptions of the Immigration Act 13 of 2002, policy implementation and programme delivery; managers and administrators' experiences in relation to assisting foreign African postgraduate students; and, thirdly, the experiences of foreign African postgraduate students themselves.

The study found that when the Department of Home Affairs implemented the above legislation it encountered various challenges including the submission of fraudulent documentation by foreign students. It also revealed that the street level bureaucrats, as policy actors, clearly understood the roles that they have to play in providing services to the beneficiaries of this legislation. Findings showed that foreign African students choose to study in South Africa as it is one of the countries closer to their country of origin and is well-known to have the best higher education institutions on the African continent. It was also found that foreign students are attracted by academic programmes available in South Africa which they do not have access to in their country of origin. This study revealed that most foreign African students experience numerous difficulties when applying for a study permit in their home country and also renewing them in South Africa. These challenges include standing for long hours in queues at the different embassies. Foreign African students also faced challenges of being denied a visa because they did not produce all the documents required as well as the experience of xenophobic attacks in the host country.

DECLARATION

I, Lwazikazi Ntinzi declare that:

1. The research reported in this dissertation, except where otherwise indicated, and is my original research.

2. This dissertation has not been submitted for any degree or examination at any other university.

3. This dissertation does not contain other persons' data, pictures, graphs, or other information, unless specifically acknowledged as being sourced from other persons.

4. This dissertation does not contain other persons' writing, unless specifically acknowledged as being sourced from other researchers. Where other written sources have been quoted, then:

    a) Their words have been re-written, but the general information attributed to them has been referenced.

    b) Where their exact words have been used, then their writing has been placed in italics and inside quotation marks, and referenced.

5. This dissertation does not contain text or tables copied and pasted from the internet, unless specifically acknowledged, and the source being detailed in the thesis and in the references sections.

Signed …………………………. Date…………………………

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DEDICATION

My late Grandfather, Grandmother and Aunts.

You are probably looking down from heaven up above.

Till we meet again in the gardens of heaven. Xhamela,

Nokwindla, Tyhopho, Butsolo Bentonga, Nina enadla

igusha zebhulu nithi zizduli zethafa.

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ACRONYMS

ACHPR: African Charter on Human and People's Rights

DRC: Democratic Republic of the Congo

ICCPR: International Convention of Civil and Political Rights

ICRMW: International Convention of the Protection of all Migrant Workers

IEASA: International Education Association of South Africa

ILO: International Labour Organisation

OAU: Organisation of African Unity

Ph.D.: Doctor of Philosophy

PMB: Pietermaritzburg

SADC: Southern African Development Community

SAQA: South African Qualifications Authority

UN: United Nations

UDHR: United Nations Declaration for Human Rights

UKZN: University of KwaZulu-Natal

CHAPTER 1

INTRODUCTION

1.1 Background and outline of research problem

The Immigration Act 13 of 2002 regulates the issuance of temporary and permanent permits to non-citizens by ensuring efficient and effective renewal processes (RSA Immigration Act, 2002). The Preamble to the Immigration Act includes directives for the regulation of transnational mobility across South African borders (RSA Immigration Act, 2002). The Immigration Act offers temporary and permanent permits to immigrants coming into South Africa (RSA Immigration Act, 2002). It ensures that both permits are issued as speedily as possible in order that foreigners may bring their skills into South Africa to boost the country's economy, and to ensure that they have access to South African services such as tertiary educational facilities (RSA Immigration Act, 2002). The Act reinforces human rights and discourages xenophobia (RSA Immigration Act, 2002). Temporary permits are issued to foreign nationals when they are going to reside within South African borders temporarily (White Paper on International Migration, 2016). These include visitor permits, diplomatic permits, work permits, treaty permits, business permits and others (RSA Immigration Act, 2002). The study permit is an example of a temporary permit (RSA Immigration Act, 2002). The Immigration Act 13 of 2002 stipulates the process of applying for a study permit and the requirements that should be met in order to obtain one (RSA Immigration Act, 2002).

Under the apartheid government acquiring citizenship or formal immigration was essentially regarded as being for the white minority only (Department of Home Affairs, 2016). The apartheid regime ensured that there was tight border security as well as strict entrance requirements to prevent black Africans, who were considered as politically undesirable and other Africans from entering the country (Department of Home Affairs, 2016). The Aliens Control Act of 1991 excluded black Africans from coming into South Africa but welcomed white people from neighboring countries (White Paper on International Migration, 2017: 4). The white skilled and semi-skilled migrants from countries such as Zimbabwe, Kenya and Zambia were given citizenship in order to boost the local white population during apartheid (White Paper on International Migration, 2016).

According to the White Paper on International Migration (2016), between the years 1913 and 1986, black African people only entered South Africa illegally or as contract workers as the apartheid regime did not allow them to apply for temporary or permanent residency permits (White Paper on International Migration, 2016).

Since 1994, the main aim of South Africa's democratic government was to do away with the racially-based and exploitative laws such as the Immigrants Regulation Act of 1913 and the Aliens Control Act of 1991 by introducing new immigration policies (Department of Home Affairs, 2016). The existing legislation was viewed as promoting and contributing to white supremacy through cheap labor (Department of Home Affairs, 2016). In order to remove the racially-based and exploitative policies, the South African government has, since 1994, developed policy and legislation on international migration and refugees with the Immigration Act 13 of 2002 being one such piece of legislation (Department of Home Affairs, 2016). According to Ellis (2006:30), the aim of the post-apartheid government, when changing the apartheid legislation, was to strengthen its relationship with other neighboring countries. This included trading with the other countries as well as investing in them (Ellis, 2006:30). South Africa is one of the African countries that faces the issue of scarcity of skilled labor (Ellis, 2006:30). Therefore, the government also wanted to attract skilled labor from other countries in order to boost the South Africa economy (Ellis, 2006:30).

Statistics show that in 2012 approximately 14% of study permits applied for were issued (Statistics South Africa, 2012:14). According to the White Paper on International Migration (2017:14), 18% of study permits applied for were issued between the years 2014 to 2016. This indicates that the number of international students coming into South Africa has increased over the years (White Paper on International Migration, 2017:14). Full of expectations and hope, international African students encounter a myriad of challenges, one being applying for study permits. Section 7 of the Bill of Rights in the South African Constitution states that all the rights as well as the freedoms stipulated in the Constitution apply to everyone living in South Africa (RSA Constitution, 1996). Section 29 of the Bill of Rights stipulates the right to education (RSA Constitution, 1996). This right to education is for everyone who lives in South Africa including foreigners.

Motivated and propelled by social, political and economic factors, South Africa is an attraction to most African migrants (Tati, 2010:210). The search for greener pastures, including

education, has pulled migrants to South Africa (Tati, 2010:210). The country has seen students from several countries coming to pursue mainly postgraduate studies in the higher education institutions. Foreign students leave their country in order to access a better-quality education than they could attain in their country of origin (Gubba, 2014:4). South Africa's high level of tertiary education in terms of research output and efficiency in postgraduate supervision has placed its universities in the limelight (Tati, 2010:282). However, challenges still occur even though the South African Constitution upholds non-discriminatory values for everyone regardless of gender, nationality, race and so forth (Tati, 2010:284). To study in South Africa foreign African students need to have a study permit (RSA Immigration Act, 2002)

1.2 Key questions

The key questions underpinning the study were as follows:

1. What are the reasons for foreign African postgraduate (PhD) students coming to study in South Africa?
2. What is the application process and policies for foreign African postgraduate students to study in South Africa?
3. What are the systems and structures at UKZN for foreign African postgraduate students to facilitate their studies?
4. What are the challenges that UKZN PMB foreign African postgraduate students face in accessing study permits?
5. What are the experiences of UKZN administrators in dealing with foreign African postgraduate students' applications?

1.3 Objectives of the study

In terms of objectives, the study sought to investigate and understand:

1. The reasons for foreign African postgraduate (PhD) students coming to study in South Africa.
2. The application processes and policies for foreign African postgraduate students to study in South Africa.
3. The systems and structures in place at UKZN for foreign African postgraduate students to facilitate their studies.
4. The challenges that UKZN (PMB) foreign African postgraduate students face in accessing study permits.

5. The experiences of UKZN administrators in dealing with foreign African students' applications.

1.4 Research methodology and methods

This study adopted a qualitative research approach. According to Du Plooy-Cilliers, Davis and Bezuidenhout (2014:173), a qualitative research approach is one that seeks to gain an in-depth understanding of the essence, as well as the nature of, human experiences. This includes the personal experiences which are characteristic of the individual experiences and meanings associated with a particular phenomenon (Du Plooy-Cilliers, Davis and Bezuidenhout, 2014:174). This approach was considered suitable given that the study sought to obtain an in-depth understanding of the personal experiences and meanings of foreign African postgraduate students at the UKZN (PMB) Campus in accessing study permits.

1.4.1 Case study

The type of qualitative methodology used in this research was the case study. According to Spring (1997:1), case study research sheds light on complex issues and can extend experience or add strength to what is already known through previous research. Babbie and Mouton (2001:181) defined a case study "as an intensive investigation of a single unit. Most of these studies involve the examination of multiple variables." Babbie and Mouton (2002:281) stated that a case study takes "multiple perspectives into account and attempts to understand the influences of multilevel social systems on subjects' perspectives and behaviors."

A case study was considered appropriate for this research as it aimed to attain an in-depth understanding of the experiences of foreign UKZN postgraduate (PhD) students in accessing study permits.

1.4.2 Sampling

This study adopted a non-probability sampling technique to select respondents for the study. Non-probability sampling is used when it is difficult, or impossible, for the researcher to determine and reach the entire population (Babbie and Mouton, 2010:166). In a non-probability sample the elements in the population do not have an equal opportunity to be part of the sample (Babbie and Mouton, 2010:166). Non-probability sampling was best suited for this study as

there are many foreign African postgraduate students at UKZN (PMB Campus) making it difficult, if not impossible, to identify and gain access to them all.

The type of non-probability sampling used in the study was purposive sampling (Du Plooy-Cilliers, Davis and Bezuidenhout, 2014:142). According to Payls (2008:697), "purposive sampling is a non-probability sampling method and it occurs when elements selected for the sample are chosen by the judgment of the researcher." Purposive sampling was best suited for this study as it allowed the researcher to select the elements that she wanted to include in the sample. The sample comprised the Department of Home Affairs which was the implementer of the legislation (Immigration Act 13 of 2002), the UKZN International Student Office which was responsible for the admission of foreign African postgraduate students, and the foreign students themselves who were registered at UKZN (PMB Campus) and who were beneficiaries of the legislation. In total the sample consisted of 18 participants, that is, 14 foreign African postgraduate (PhD) students from the UKZN (PMB Campus), two Department of Home Affairs Officials in Pretoria (Head Office) and two UKZN (PMB Campus) postgraduate administrators one of whom was from the International Office.

More specifically, the study used a convenience sampling method. A convenience sample consists of elements that are easy to reach or gain access to (Du Plooy-Cilliers, Davis and Bezuidenhout, 2014:142). Convenience sampling was used as it made it easier for the researcher, who resides in PMB, to gain access to the foreign African postgraduate students on campus. The participants were recruited through the School of Social Sciences postgraduate rooms as well as through the postgraduate administrator who had the contact details of the foreign African postgraduate students.

1.4.3 Data collection methods

In-depth interviews were used in the study to gather primary data. Du Plooy-Cilliers, Davis and Bezuidenhout (2014:188) describe in-depth interviews as a data collection method that allows the researcher to asks the participants questions with the aim of getting information about the participants views, beliefs as well as opinions of the phenomena being studied. Administrators from the Department of Home Affairs as well as the UKZN International Students Office, as key stakeholders, were interviewed using in-depth interviews. Open-ended

questions were used to get the participants' views, beliefs and opinions of the study permit application process.

Another primary data collection tool that was used to collect data for the study was the focus group. Focus groups refer to group interviews, conducted by the researcher, that are used to determine the attitudes and preferences as well as the dislikes of the participants. Focus groups are also used to determine experiences of the participants (Du Plooy-Cilliers, Davis and Bezuidenhout, 2014:183). According to Du Plooy-Cillers, Davis and Bezuidenhout (2014:188), when conducting a focus group, the researcher can also use open-ended questions. The participants in the focus groups were all foreign African postgraduate (PhD) students in the School of Social Sciences at the UKZN (PMB Campus). Two focus group sessions were held, with seven students in each group. A range of countries were represented by the participants, namely, Nigeria, Zimbabwe, Kenya, Malawi, Congo, Ethiopia, Uganda, Botswana and Mozambique. This would reflect a wide range of experiences with regard to obtaining a study permit. The data that was collected from the interviews were recorded and transcribed. Other primary data sources used in the study were policies and legislation related to immigration. Journals, newspapers and published books were sources of secondary data.

1.4.4 Data analysis

Thematic analysis was the method of data analysis applied in the study and manual coding was used to categorise the data. Thematic analysis is a qualitative method that is used to analyse, report and identify themes or patterns (Braun and Clarke, 2006:6). According to Braun and Clarke (2006:6), "it minimally organizes and describes your data set in detail. However, it also often goes further than this, and interprets various aspects of the research topic". Therefore, this study used thematic analysis to identify and analyse themes that emerged from the theoretical framework as well as the literature review. These themes were: Conceptions of the Immigration Act 13 of 2002, policy implementation and programme delivery; managers and administrators' experiences in relation to assisting foreign African postgraduate students; and, thirdly, the experiences of foreign African postgraduate students themselves.

The responses of respondents were coded as AD1- Assistant Director, AD2- Assistant Director, PA-Postgraduate Administrator, IO - UKZN International Office Administrator, FG1-Focus Group 1 and FG2-Focus Group 2.

1.5 Limitations of the study

The Visa Facilitation Services (VFS) is a private company that manages the administrative and non-judgmental tasks related to visa as well as passport applications. While the VFS could have provided useful perspectives on the research topic, it refused to participate in the study. A request to UKZN Intellectual Intelligence (II) for statistics relating to foreign African postgraduate (PhD) students registered on the PMB Campus was, together with all the necessary documentation for this information to be released, timeously submitted. This information was, however, not provided to the researcher and no reason was given.

1.6 Structure of the remainder of the dissertation

In terms of the remaining five chapters of the dissertation:

Chapter two is the literature review. This chapter presents the existing literature on migration, including reasons for migration and student migration. It also discusses the challenges faced by foreign students when accessing study permits in both their country of origin and their host country.

Chapter three explores the theoretical framework of the study, namely, the implementation theory of public policies.

Chapter four comprises the legislative framework. It presents the policy and legislative frameworks that govern migration internationally as well as in South Africa. The legislative framework in South Africa, namely, the Immigration Act 13 of 2002, is informed not only by policy but also by the Constitution.

Chapter five consists of the findings and an analysis of the Immigration Act 13 of 2002 as it relates to study permits. It presents an implementation analysis of this legislation. The findings are presented according to the themes drawn from the theoretical framework and literature review and outlined above.

Chapter six will present the conclusions of the study, as derived from the findings and analysis as presented and discussed in the previous chapter.

1.7 Conclusion

This chapter introduced the research topic. It provided the background to the study, outlined the research problem and listed the research questions and objectives underpinning the study. It also provided the methodology (qualitative case study, sampling, data collection methods and data analysis), used in the study as well as the limitations of the study.

CHAPTER 2

LITERATURE REVIEW OF MIGRATION AND STUDENT MIGRATION

2.1 Introduction

This chapter explores literature on migration. It conceptualises the term migration and discusses the economic, demographic as well as political factors that influence individuals to move from one state to the other. Student migration is further discussed, highlighting the reasons that make students leave their country of origin to study in a foreign land. Lastly, this chapter discusses the various challenges that foreign African students face in their host country.

2.2 Definitions of migration

Mallah and Dubey (2005:220) define migration as the movement of persons from one state to the other. Alam (1995:15) explains migration as "the process of moving from the use of one operating environment to other operating environment that is, in most cases, is thought to be a better one". According to the United Nations (2015:6), a migrant is a person who voluntary or involuntary moved from their country of origin to go and reside in a foreign country of choice for a period of more than a year. This description further includes migrants such as economic migrants, asylum seekers as well as refugees (United Nations, 2015:6).

It is important to note the people can migrate temporarily to their host country with the aim of returning to their country of origin in the near future (Mallah and Dubey, 2005:220). In addition, people can migrate to a certain state permanently and become permanent residents of that particular country (Andrienko, 2010:2).

2.3 Types of migration

There are different types of migration. There are people who move from one country to another by choice and this is called voluntary migration (Skeldon, 2017:4). People usually migrate voluntarily when they want to experience the feel of a different environment. However, the majority of people migrate because they do not have a choice and are forced to do so by certain circumstances such as wars and natural disasters (Skeldon, 2017:4). Therefore, migration that forces people to migrate due to certain circumstances is called involuntary migration (Skeldon, 2017:4). The different types of migration also include student migration, immigration, internal migration, emigration, rural-urban migration, international migration and counter-urbanisation

(Skeldon, 2017:6). This research looked at student migration – foreign African postgraduate (PhD) students, who are temporary migrants.

2.4 Reasons for migration

In terms of involuntary migration, various studies outline numerous reasons that force migrants to move from one region to the other. Scholars classify the factors that motivate people to move into different categories, namely, economic factors, demographic factors as well as political factors. Each is discussed in turn.

2.4.1 Economic factors

The majority of studies indicate that one of the factors that motivate migration is economic (Wolfinger, 2013:9). Literature shows that most underdeveloped countries face economic issues such as low level of income and unemployment (Thet, 2010:3). These issues are seen as the main factors that push migrants to more developed states to seek greater and better employment opportunities (Wolfinger, 2013:9). According to Gheasi and Nijkamp (2015:5), the lack of resources in a certain country motivates migrants to move to other countries which have not exhausted their natural resources (Thet, 2010:4). Thus, in terms of economic factors, people migrate to seek opportunities for better employment, higher wages as well as to better their standard of living (Wolfinger, 2013:5).

2.4.2 Demographic factors

The study of Millah and Dubey (2015:229) notes that a country has different population growth rates in different regions. This is the main cause of internal migration where people from rural areas move to cities because of the high population growth rate in rural areas caused by fertility (Millah and Dubey, 2015:229). The study conducted by Thet (2014:5) points out that marriage is another demographic factor that causes migration because females tend to follow their husbands.

2.4.3 Political factors

Sometimes political factors encourage or discourage migration from one region to another (Rohrmoser, 2007:25). It may happen that a country is faced with events such as political violence and wars which may result in death should one remain (Rohrmoser, 2007:25). According to Rohrmoser (2007:25), such events force people to move to another state to seek

protection. The acts of corruption by government can lead citizens of that particular state to move to states with less corrupt governments (Gheasi and Nikjamp, 2015:4).

2.5 Student migration

Ramphele (1999:1), referring to an international student, defines such a student as "anyone who is not a South African citizen, not a permanent resident or does not have diplomatic exemption, who studies at an educational institution in South Africa." According to Sichone (2006:38) universities are said to be "institutions rooted in a universal cultural experience, although over time, they have developed individual and national characteristics and traditions which are preserved and marketed extensively." The study of Becker (2011:5) states that students, to pursue their higher education, normally choose their university guided by the availability of courses in that particular university.

According to Becker (2011:5), the introduction of the International Education Association of South Africa (IEASA), a non-governmental, non-profit professional association, has endeavored to position South African higher education. This has created an increase in the number of international students enrolling in South African higher education institutions. Furthermore, Becker (2011:6) points out that ever since South Africa became a democratic and independent state, the number of African international students registering in this country's universities has increased remarkably.

According to Paige (1990, In Zar, 2011), international students can be found in different states which offer higher education learning around the globe. Zar (2011:1) states that it is important to note that the majority of international students aim to return to their country of origin once they have concluded their studies. The amount of years or months stayed by an international student in a foreign country is determined by the duration of the programme or course the student is registered for in a certain higher education institution (Zar, 2011:1).

2.5.1 Reasons for studying in other countries

There are various reasons for students to leave their countries to study in another country (Ward et al, 2001) and these are discussed below.

Recommendations from family and friends

Wilkins and Huisman (2011:61) state that international students usually seek recommendations from friends who are already in international universities and who already have experience in a particular higher education institution in a foreign country. This means that recommendations from close family and friends who have studied at a certain international university attract students to study at that institution (Wilkens and Huisman, 2011:61). Wilkins and Huisman (2011:61) further mention that some universities usually ensure that international students receive the best treatment including incentives, residence and orientation so that they will, in turn, encourage the next generation of international students to attend the same institution.

Education is in English

In most English-speaking countries there has been a growth in the number of international students studying there. The majority of students choose countries that offer education in English and are also well known to offer qualifications that are highly recognised around the globe (Harrison, 2011:1). According to Chimucheka (2013:1) many international students are attracted by the use of English in South African universities. This means that they will not be required to learn another language as compared to other foreign universities (Chimucheka, 2013:1).

Proximity to country of origin

Singh (2013:90) states that "other universities attract foreign students for various reasons including location in relation to neighbouring countries, economic problems in neighbouring countries and programmes offered by the individual universities." International students choose South Africa as their country of study because it is closer to their homes and is one of the countries noted for its quality of higher education around the globe (Chimucheka, 2013:225).

Political and economic challenges

According to Gumbo (2015:5) some countries are faced with economic as well as political issues, and such issues may force students to enroll in universities outside of their countries. Gumbo (2015:6), for example, points to the wars that happened in Sudan, the Democratic Republic of the Congo (DRC) and other African countries. Gumbo (2016:6) notes that war

makes it difficult for students to learn or go to university and this drives them to the nearest neighbouring country, or a foreign country of their choice, to further their studies.

In countries such as Zimbabwe, where political and economic challenges such as high levels of inflation and the rights of citizens being violated exist, students have no other choice but to cross the border to South Africa to seek education opportunities (Singh, 2013:91). According to Chimucheka (2013:224), the above-mentioned are not the only reasons behind students migrating from Zimbabwe to study in South Africa.

Quality education

Foreign African students choose South African universities because they are known to have a higher standard of education than institutions in their own country (Zar, 2011:1). Studies also show that African international students choose to pursue their tertiary education in South Africa because it is one of the countries on the African continent that is close to their country of origin (Buthelezi, 2009:1).

Availability of academic programmes

According to Mda (2010:5), another reason for international students being attracted to South African universities is the fact that the programmes or courses available in these institutions are not offered in their own countries. Mda (2010:5) notes that in South Africa, the Southern African Development Community (SADC) students are not charged a foreign levy. Instead, they are subsidised like South African students which makes studying in South Africa cheaper for them in comparison to other countries. Evevie (2009:4) made the point that for some international students, studying in South Africa was just a desire to leave home and be independent as they are far from their parents' eyes.

2.6 Challenges faced by international students in foreign higher education institutions

Various challenges faced by students when studying in foreign higher education institutions are documented in the literature. These are outlined and discussed below.

2.6.1 Study visa application

According to Agbeniga (2017:52), individuals who travel from one country to the other are expected to have a valid visa that permits them to be in any host country. Agbeniga (2017:52) further adds that students who leave their country of origin to go and study in another country

are also expected to have obtained study visas from their country of origin. The study visa application and renewal processes seem to be a smooth experience for some international students (Agbeniga, 2017:52). However, other students do face serious difficulties when applying for, and renewing, their study permits whether in their country of origin or their host country (Baki and Talebloo, 2013:143).

Waiting period

International students are faced with the issue of having to wait a long time before their study visas are approved and this sometimes results in their not being able to register or enroll in certain tertiary institutions (Baki and Talebloo, 2013:143). The study of Baki and Talebloo (2013:143) found that while the rules and regulations with regard to visa application processes are excellent, it is the staff that lack experience in assisting and fairly treating international students.

Documentation

Various studies have been done on the application for study permits by international students in South Africa and in their country of origin (Dzansi and Monnapula-Mapesela, 2012). These studies outline the documentation difficulties that international students face when applying for study permits, especially in South Africa (Dzansi and Monnapula-Mapesela, 2012). According to Baki and Talebloo (2013:144), international students are sometimes not told, or are not aware, of the documents that they need to submit to the embassy when applying for a visa. Therefore, international students find themselves having to go back to their homes to fetch the missing documents as failure to do so could lead to the study permit application being declared as incomplete and subsequently declined (Baki and Talebloo, 2013:144).

Unfriendly immigration officials

According to Gumbo (2014:35), immigration officials working at the Department of Home Affairs are said to be very unfriendly and rude to international students wanting to apply for study permits. This has a negative effect on the ability of South African universities to attract and retain a large number of international students (Dzansi and Monnapula-Mapesela, 2012). The study of Gumbo (2014:36) indicates that not only are the immigration officials at the Department of Home Affairs rude and unfriendly to international students applying for study permits, there are also strict measures that have been implemented by the Department which

make it difficult for international African students to access study visas. The study by Muthuki (2013) suggests solutions for dealing with the challenges that international students encounter in accessing study permits. According to Muthiki (2013) the administrative procedures involved in getting a study permit need to be followed. Furthermore, the international student office on university campuses should be more active and supportive in assisting foreign students to renew their study permits. If South African universities are regarded as institutions of choice, then immigration officials need to show more friendliness because not doing so might deter potential students from applying (Dzansi and Monnapula-Mapesela, 2012).

2.6.2 Financial and accommodation problems

In higher education institutions, students are characterised in two distinct ways (Altbach and Knight, 2007). There are those who study on a scholarship and there are those who are self-funded (Altbach and Knight, 2007). These characteristics apply to both local and international students. However, financial constraints remain an endless problem for many international students in universities (Bojuwoye, 2002). Bojuwoye (2002) further states that international students may decide to further their studies in a foreign country but lack of finance could result in students later withdrawing from their studies.

Letseka, Cosser, Breier and Visser (2010) discovered that one of the mutual reasons that cause both local and international students to drop out of university is financial difficulties. According to Sledge (2012), some international students do get funding in the form of a bursary and student loans. However, these types of funding are sometimes not enough to cover expenses such as accommodation, books and tuition, and other living expenses (Sledge, 2012). Financial difficulties sometimes result in international students registering late, and this makes it hard for them to catch up academically (Bujowuye, 2002:16). International students may also have difficulty purchasing basic necessities such as food (Bujowuye, 2002:16). In order to overcome financial challenges in the host country international students usually seek part-time jobs in clubs and hotels so that they can earn themselves income and pay for their own studies (Altbach and Knight, 2007).

2.6.3 Adjustment problems to host country

Secuban (2012) states that being enrolled in a tertiary institution can be viewed as a positive event with great opportunities for the academic and social development of an individual.

Nonetheless, like other life events, enrolling in a tertiary institution is accompanied by a variety of challenges. According to Altbach and Knight (2007), some of the adjustment problems faced by international students in the host country include different teaching styles used by lecturing staff, large amounts of work, and fitting into the new environment. In terms of the latter, international students who leave their homes to study at a foreign university encounter the challenge of facing a new environment (Altbach and Knight, 2007).

Shupe (2007:1) states that adjusting to a new environment is usually the hardest thing to do especially when coming from a different environment. According to Shupe (2007:1), international students find it hard to adjust in a country where they are furthering their studies because of differences such as culture and language. These differences tend to impact negatively on their studies (Shupe, 2007:1). Shupe (2007:1) further notes that some universities are not keen to help international students get used to their new environment. Nonetheless, international students find ways of adjusting to the host country. They usually do this by setting goals and achieving a balance between academic and social activities (Shupe, 2007:1).

Discrimination

Chimucheka (2013:227) pointed out that international students are usually discriminated against by local students as well as staff in the host countries' higher education institutions. The numerous studies on international students have shown that these students are discriminated against because of cultural dissimilarities, race and nationality (Smith and Khawaja, 2011:14). According to Smith and Khawaja (2011:14) this, in turn, negatively impacts on the adaptation of international students in a higher education institution and may also cause depression.

Language

In a foreign country, one of the challenges that are faced by foreign individuals is the ability to understand the languages spoken in that particular country (Dzansi and Monnapula-Mapesela, 2012). According to Dzansi and Monnapula-Mapesela (2012), in countries such as South Africa, English is used as the medium for teaching (Dzansi and Monnapula-Mapesela, 2012). However, some international students are from non-English speaking states (Smith and Khawaja, 2011:9). Therefore, the inability to understand the language of teaching used in the host country can negatively affect international students when it comes to understanding

lecturers, oral and written exams, as well as the writing of assignments and tutorials (Smith and Khawaja, 2011:9).

2.6.4 Xenophobia

According to Chimucheka (2013:227), discrimination (noted above) is one of the frequent challenges encountered by international students in their host country. Discriminating against international students can, in most instances, lead to the act of xenophobia (Chimucheka, 2013:227). Onah (2011:2) defines xenophobia as "the strong feeling of dislike or fear of people from other countries." According to Shindondola (2002), international students experience xenophobia around the world. The study conducted by Cross and Johnson (2008:300), illustrated that xenophobia that is directed at international students in South Africa has serious outcomes including South Africa being seen, by foreign nationals, as an unfriendly nation. Cross and Johnson (2008:311) found that most South Africans do not understand the concept of foreigners coming into their country and most South African students are still xenophobic towards international students.

According to Sigh (2013), international students at the University of Venda struggle to get residence accommodation due to local students refusing to share a room with them. Sigh (2013:98) highlights the incident of a Zimbabwean student who was verbally insulted by one of the residence managers at the University of Venda. The manager shouted that "this was not Mugabe's University and that the student should not bring her Zimbabwean tendencies to her office. "According to Sigh (2018:98), international students at the University of Venda relate instances where they are told by local students, in a lecture hall, to go back to their country of origin.

According to Muthuki (2013), African international students experience xenophobia when both staff members and local students communicate with them in a language that they do not understand. Sigh (2013:99) states that international students deal with xenophobic experiences in the host country by enduring the emotional and physical scars of the xenophobic encounter. International students are sometimes physically attacked because local students accuse them of isolating themselves and thinking that they are better than them, the local students (Singh, 2013:99).

According to the study of Mullay (2010:28), one might not notice xenophobic attacks on international students because they are hidden. However, this does not mean that such attacks do not happen. One can only learn of the xenophobic experiences of international students if they are willing to share such experiences (Mullay, 2010:28). The findings of Mullay (2010:35) revealed that international students also experience xenophobia from government officials, mainly the police and immigration officials – the very people who should be protecting them from this scourge.

2.7 Conclusion

This chapter defined migration as the movement of persons from one state to the other. People migrate for various reasons including unemployment, population growth as well as political violence. One of the types of migration is student migration. Student migration is where students leave their country of origin to go and study in another country. The literature reveals that the availability of academic programmes in higher education institutions in a foreign country and the quality of education offered; attract international students to that country. In addition, recommendations from close friends and family as well as proximity to their country of origin also motivate international students to come and study in a foreign country, particularly South Africa. However, having said this, international students experience numerous challenges when applying for and renewing a study permit in South Africa and also in their country of origin. In terms of the latter, these include the waiting periods involved and the issue of missing documentation. Challenges faced by international students in the host country include adjusting to the host country's language, culture and environment. In addition, international students experience financial problems as well as xenophobia in South African higher education institutions, the Department of Home Affairs and the host country at large.

CHAPTER 3

THEORETICAL AND CONCEPTUAL FRAMEWORK

3.1 Introduction

This chapter presents the conceptual framework of the study. It discusses what is public policy, types of public policy, policy processes, policy actors and their roles, and the issues that public policy seeks to address. The chapter also focuses on policy implementation and the various approaches to, and the processes involved in, policy implementation. It outlines the factors that contribute to successful policy implementation as well as those that contribute to policy implementation failure.

3.2 Public policy

Public policy can be defined as the relationship between the government and its environment (Anderson, 2003:2). In public policy making the government determines what it is going to perform or not do (Anderson, 2003:2). According Cochran and Malone (2010:6), it is the government that decides whether to act or not to solve a specific problem. Policy is made by those who are given the rightful power to impose normative guidelines for action (McKay and Shaxton, 2010:2). It is made by elected officials such as government ministers. Non-elected officials are asked to implement the policy through programmes (McKay and Shaxton, 2010:2).

Anderson (2003:5) distinguishes between distributive, redistributive as well as regulatory policies. Distributive policies aim to provide citizens as well as certain groups with certain benefits (Peters et al, 1997:3). Policies that seek to promote equality, especially to previously disadvantaged groups, are referred to as redistributive policies (Ferreira, 1996:1). According to Peters et al (1997), regulatory policies aim to prevent activities that expose or harm society. Therefore, government uses regulatory policies to control society (Lowi, 1973:2). The Immigration Act 13 of 2002 is such a policy and seeks to regulate the issuance of temporary and permanent permits to non-citizens by ensuring efficient and effective renewal processes (RSA Immigration Act, 2002:2).

According to the Organisation for Economic Co-operation and Development (OECD) (2013:3) regulatory policy stipulate the rules that need to followed and people who fail to obey these rules are punished or sanctioned. According to Rahimi (2011:174), "Regulatory policies, or

mandates, limit the discretion of individuals and agencies, or otherwise compel certain types of behavior." Rahimi (2011:174) goes on to state that regulatory policies "are generally thought to be best applied when good behavior can be easily defined and bad behavior can be easily regulated and punished through fines or sanctions." The main aim of regulatory policy is to ensure that the rules are in the public interest (OECD, 2012:3). The OECD (2013:3) further states that regulatory policy helps to develop a relationship between the state, citizens and businesses.

It has been outlined by the OECD (2011:3) that an effective and efficient regulatory policy supports monetary growth and the rule of law, and this helps policy makers determine what to regulate, who to regulate and how to regulate (OECD, 2011:3). Regulatory policy promotes citizen participation, transparency in the application of regulatory powers, open communication, as well as consultation (OECD, 2011:3). A lack of transparency, communication and consultation results in an inefficient and improper enforcement of regulations which create room for corruption (Rahimi, 2011:174).

The OECD (2011:10) notes that "Effective communication to stakeholders is of growing importance to secure ongoing support for regulatory quality work." The OECD (2011:10) states that one of the most important tools contributing to successful regulatory policy is e-government. According to the OECD (2011:10), "E-Government is an important support tool for Better Regulation. It permeates virtually all aspects of regulatory policy from consultation and communication to stakeholders, to the effective development of strategies addressing administrative burdens, and not least as a means of disseminating Better Regulation policies, best practices, and guidance across government, including local levels."

Policy making consists of different phases the first of which is problem identification. This means that policy makers are required to identify a policy problem that is at hand (Cochran et al 2009). According to Ripley (1978:5), the agenda setting stage refers to the process whereby government recognises the identified policy problem and comes up with solutions to solve the problem. The policy formulation stage seeks to identify the goals and objectives of the policy and how these goals and objectives will be achieved (Cochran and Malone, 2010).

There are various key players involved in the different stages of the policy making process such as cabinet, public servants, the media, political parties, legal systems, the public as well

as interest groups (Cochran and Malone, 2010). However, the government is the only one that has decision making powers (Cochran and Malone, 2010). According to Cochran and Malone (2010), once the policy has been adopted or approved it is said that the information contained in the policy document is turned into reality in order to achieve the aims and objectives of the policy. This policy stage is referred to as policy implementation (Cochran and Malone, 2010).

3.3 Policy implementation

E-governance as well as e-government was introduced by the South African government with the aim of improving the nation's service delivery (Jonck, 2003:16). These are well-known implementation processes that allow participation of citizens in decision making (Mitrovic, 2009:20). The concept of electronic governance and electronic government are mainly found in the implementation stage of the policy cycle (Mitrovic, 2009:20).

There are various studies on policy implementation (Brynard, 2005:4). According to Burke et al (2012:2), "implementation is a process of putting the objectives of policy adopters into action in an effort to accomplish the desired results." Barkenbus (1998:6) defines policy implementation as the transformation of what is stated in policy documents into reality. It seeks to determine whether an organisation has the ability to achieve its specified goals and intentions (Sapru, 2011:262). It is important to note that in the policy cycle, implementation is situated between decision making and evaluation (Barkenbus, 1998:6).

According to Cargo and DeGroff (2009:47), policy implementation reflects a complex change process where government decisions are transformed into programmes, procedures, regulations or practices aimed at social betterment. Furthermore, implementation is characterised by the actions of multiple-level agencies and institutions (Cargo and DeGroff, 2009: 48). Policy implementation is of critical importance to the success of a government (Brinkerhoff: 2002:22). The policy implementation theoretical framework outlines two main approaches to policy implementation, namely, the top-down and the bottom-up approach (Imamura, 2015:12).

3.4 Approaches to policy implementation

As noted above two approaches to policy implementation are identified and these are discussed below.

3.4.1 Top-down approach

In the top-down approach policy makers are the dominant actors and the power to make decisions rests with the central decision makers at the top (Cloete and de Coning, 2011: 139). The top-down approach involves a good chain of command and the capacity to coordinate from the top to the ground level (Cloete and de Coning, 2011:140). It begins with the government deciding to make decisions (Cloete and de Coning, 2011:140). The advice offered by the top-down approach to government is that it should have clear as well as reliable objectives. This will ensure that government has the ability to change and place the implementation responsibility with an organisation that has a clear understanding of the policy goals (Signe, 2017:13). According to Cloete and de Coning (2011:140), the top-down approach does not encourage public participation. It strongly emphasises control over the individual, organisation or administrators who are involved in carrying out the policy (Cloete and de Coning, 2011:140). This approach attempts to develop generalisable policy advice and then arrive at consistent, recognisable patterns in behaviour across different policy areas (Cerna, 2013:18).

However, the top-down approach has attracted criticism from other implementation theorists (Barret, 2004:252). The main criticism is that it views implementation as an administrative process and ignores or cuts aspects that are political (Cerna, 2013:18). Other criticisms of the top-down approach come from the notion that this approach ignores local actors, or does not encourage local actors and public participation in policy implementation (Cerna, 2013:18). Furthermore, the "top-downers" are criticised for making an assumption that those who make policy decisions are the main actors in policy making while others are impediments (Matland, 1995:148). According to Matland (1995:148), this results in the top-downers abandoning the private sector's strategic initiative, street-level bureaucrats as well as local policy implementers. The top-down approach will be used to analyse the application processes and policies for foreign students to study in South Africa.

3.4.2 The bottom-up approach

The bottom-up approach is a response to the limitations of the top-down approach (Cloete and de Coning, 2011:139). The bottom-up theorists encourage the participation of target groups and those delivering services as they argue that policy making should include public participation (Liedl, 2011:8). This means that policy must be made at a local level (Kendal, 2006:7). The bottom-up approach criticises the top-down approach for placing more attention on central decision making and neglecting the public (Kendal, 2006:7).

Scholars such as Hanf, Hjern and Porter (1978) as cited by Cerna (2013:18), used a bottom-up approach that outlined the network of actors who are involved in service delivery in one or more local area and who are asked about their goals, strategies, activities and contacts. These contacts are used to develop a networking technique in order to identify national, regional as well as local actors that participate in the formation, funding and implementation of certain governmental and non-governmental programmes (Cerna, 2013:18). This provides a mechanism for moving from local actors and decision-makers, such as teachers and doctors, up to the top policy-makers in both the public and private sectors (Cerna, 2013:18). In terms of policy areas, "bottom-uppers" examine policies which have more uncertainty in the policy (Cerna, 2013:18). Signe (2017:14) states that in the bottom-up approach, legislative objectives are used to assess the failure or success of a particular policy.

There are benefits as well as critiques of the bottom-up approach (Cloete and de Coning, 2010:141). One benefit of this approach is that it focuses solely on actors that are centrally located. These actors develop and execute government projects, policies and programmes, thus contextual factors within the implementing environment are important. Signe (2017:14), states that there must be an understanding of goals, strategies and activities by actors in order for these actors to understand implementation. Unlike the top-down approach, bottom-uppers do not present prescriptive advice, but rather give a description of specific reasons that have led to difficulties in reaching policy intended goals (Olsidiho, 2016:270).

Liedl (2011:8) poses two critiques of the bottom-up approach. The first critique states that policy control needs to be exercised by actors whose power comes from their accountability to sovereign voters through their elected representatives, but the authority of local service deliverers does not derive from this. The second critique is that this approach tends to focus more on the level of local autonomy (Matland, 1995:148). The bottom-up approach will be used to understand the experiences of foreign African postgraduate students involved with the implementation of the Immigration Act 13 of 2002.

Street- level bureaucrats as policy actors

There are various definitions of the term street-level bureaucracy. Lipsky (2010:4) defines street-level bureaucrats as people who work and instantly interact with citizens on a daily basis. Lipsky (2010:4) also describes street-level bureaucrats as people who work for government or

in government programmes to deliver services. Erasmus (2010:1) describes street-level bureaucrats as "the frontline workers or policy implementers in government agencies such as the health service, schools or police service." According to Erasmus (2010:1), teachers, doctors, policemen as well as nurses are examples of street-level bureaucrats. Street-level bureaucracies are also described as "the public services whose workers interact with and have wide discretion over the dispensation of benefits or allocation of public sanctions and through whom citizens experience directly the government they have implicitly constructed" (Meyer and Nielsen, 2012:350). Lipsky (2010:3) states that public workers have a very important role in the implementation of policy. This is because public service workers are central actors in delivering implementation (Lipsky, 2010:3).

According to Cohen and Gershgoren (2016:269), street-level bureaucrats are classified as the frontline of public management or administration. They work together with the public and their jobs include considerable discretion (Cohen and Gershgoren, 2015:269). According to Hupe and Hill (2009:280) discretion is viewed as important in both policy implementation approaches. However, the top-down approach views discretion as often not essential. The top-down approach has the perception that street-level bureaucrats use the notion of discretion to meet their own ends (Hupe and Hill, 2009:280). The bottom-up approach has a completely different perspective about discretion as compared to the top-down approach (Tummers and Bekkers, 2014:6). The bottom-uppers view discretion as important because it helps them to use rules as well as regulations in various situations in order to enhance the efficiency of a certain policy or programme (Tummers and Bekkers, 2014:6).

Another characteristic of street-level bureaucrats is that in as much as they operate under conditions of limited resources, they are still dedicated in supplying or rendering services to their clients or citizens (Cohen and Gershgoren, 2015:269). The street-level bureaucrats are able to work under pressure and with limited resources (Cohen and Gershgoren, 2015:269). Cohen and Gershgoren (2015:269) argue that public policy is not implemented at the top-down level, but rather implemented at the bottom-up level using street level bureaucrats. The street-level bureaucrats have the ability to make and limit opportunities for their clients and have the ability to influence the lives of individuals (Cohen and Gershgoren, 2015:269).

One of the essential characteristics of street-level bureaucrats is that they interact face-to-face with their clients (Cohen and Gershgoren, 2015:270). The decision-making process of street-level bureaucrats is influenced by opinions, views, perceptions, values and morals, social

networks and the intensity in which they make decisions (Cohen and Gershgoren, 2015:270). The street-level bureaucrats also offer hope for people to receive reasonable and effective treatment (Carausan, 2015:579). However, street-level bureaucrats are restricted in terms of how responsive they may be. Existing protocols restrict their abilities to handle things on a case-by-case basis (Carausan, 2015:579).

There are various challenges that are faced by street-level bureaucrats (Lipsky, 1980: 29). The first challenge, already pointed to above, is that of scarce resources (Lipsky, 1980:29). Street-level bureaucrats are expected to perform a huge task with scarce or limited resources. The scarcity of resources manifests in different forms (Lipsky, 1980:29). For example, scarce resources can be reflected in the manner in which street-level bureaucrats have to deal with or assist a number of clients. The processes of delivering services to clients are, as a result, considerably slowed (Lipsky, 1980:29). According to Lipsky (1980:29), sometimes the too few street-level bureaucrats have to spend their time on tasks such as the filling out of forms and this can distract from, or limit the time, they should be spending with clients. Furthermore, if the street-level bureaucrats are not capacitated or trained to perform their jobs or duties, this will impact on their performance and undermine their ability to deal with tasks that are stressful in nature (Lipsky, 1980:29).

Lipsky's theory of street-level bureaucracy was used in this study to understand the experiences of the government officials and university administrators in processing the study permits of foreign African postgraduate students at UKZN (PMB Campus).

3.5 Managing policy implementation

Policy implementation entails the involvement of policy managers (Brinkerhoff and Crosby, 2002: 39). According to Brinkerhoff and Crosby (2002:23), no single agency can manage policy implementation. Policy implementation requires multiple stakeholders such as the government, individuals, civil society as well as the private sector (Brinkerhoff and Crosby, 2002: 39). One of the most important factors in effective and efficient policy implementation is that managers are required to understand the tasks they need to perform as managers. These tasks include the management of standard operating procedures and ensuring compliance with them, establishing leadership, and providing training on the job (Brinkerhoff and Crosby, 2002:186). According to Hill and Hupe (2002:174), "policy managers need capabilities and skills different from those generally associated with administrative routine." The role played

by managers when implementing a policy is also different from that of street-level bureaucrats or those associated with general administrative routines (Brinkerhoff and Crosby, 2002: 186).

Another important factor in managing policy implementation is allocating the right resources to address a certain policy issue (Manitoba, 2003:4). According to Manitoba (2003:4), in order for policy managers to effectively and efficiently assign resources they need to:

a) Be clear on the "inventory" of expertise and knowledge of their staff;

b) Identify the particular mix of skills required for a given policy project; and

c) Assemble the resources that most closely fit the skill set identified as required under the given circumstances.

3.6 Factors that contribute to successful policy implementation

Various factors that contribute to, or influence, successful policy implementation have been identified and these are outlined and discussed below.

3.6.1 Stakeholder engagement

According to Mthethwa (2012:42), the successful implementation of a policy requires policy stakeholder engagement. Veronesi and Keasy (2009:3) define policy stakeholders as people who are responsible for implementing a particular policy as well as people who are affected by the policy either in a positive or negative way. Policy stakeholders are also policy officials that are responsible for achieving policy goals (Schalk, 2011:4). According to Schalk (2011:4), stakeholder engagement influences the success of policy implementation because different stakeholders contribute their unique perspectives including knowledge, resources and skills. However, the involvement of stakeholders in the implementation of a certain policy can pose numerous challenges. These challenges include a lack of commitment amongst stakeholders when they are supposed to implement a policy or having to take decisions with regards to how the policy will be implemented (Mthethwa, 2012:43).

3.6.2 Communication

Communication is one of the many important factors that contribute to successful policy implementation (Rahmat, 2015:309). When implementing a certain policy communication in the form of sharing information about the policy amongst stakeholders as well as target groups needs to take place (McLean, 2012:63). This means that communication between target groups

as well as the implementers of policy programmes is vital in terms of avoiding the implementation of policies that target groups do not find useful (McLean, 2012:60).

3.6.3 Capacity

Successful implementation of a policy requires policy implementers to be capacitated by having knowledge about the policy that they are implementing (Rahmat, 2015:309). This is where the policy goals and objectives are clearly and accurately outlined to policy implementers (Rahmat, 2015:309). Rahmat (2015:311) states that in order for policy implementation to be successful human and financial resources must be available. These resources must be effectively and efficiently used for implementation processes (Rahmat, 2015:309). The abuse of resources often leads to policy implementation failure (Rahmat, 2015:309).

3.6.4 Team work

Another factor that contributes to successful policy implementation is the ability for policy implementers to work in teams (Muhammad, 2014:69). Implementing a policy involves a variety of actors and working as a team is, therefore, important especially in addressing problems that other stakeholders could not solely address (McLean, 2012:65). According to Muhammad (2014:70), team work enables the stakeholders to share ideas and knowledge on how a particular policy, programme or project could be implemented.

3.6.5 Trust

Trust is another essential element that contributes to successful policy implementation (Brynard, 2009:560). For a policy to be successfully implemented, there must be a high degree of confidence in the people who are implementing the policy (Brynard, 2009:560). Everyone involved in implementing the policy must have the belief that no-one will sabotage the initiative or cause any form of harm (Brynard, 2009:560).

3.7 Factors that contribute to implementation failure

There are various factors that cause policy implementation to fail and these are discussed below.

3.7.1 Lack of stakeholder engagement

Mthethwa (2012:42), points out that stakeholder participation in policy implementation is influenced by a range of factors, including the context, the policy content and stakeholders' needs and resources, level of knowledge of the policy, and their relative power and influence. Therefore, a policy may fail if there is a lack of stakeholder engagement (Mthethwa, 2012:42). However, the involvement of stakeholders in implementation of a certain policy can also pose numerous challenges as policy implementation requires joint action in response to new partnerships that did not exist previously (Mthethwa, 2012:42). According to Mthethwa (2012:42), there are cases where stakeholder groups and organisations are not always committed to the same outcomes, but are required to reach agreement to support implementation.

3.7.2 Lack of team work

Muhammad (2014:67) argues that policy implementation may fail if policy implementers do not have the ability to work together as a team. Where there is no team work, policy implementers would encounter problems when taking decisions and also when addressing problems that may arise during the course of implementation (Muhammad, 2014:69). According to Muhammad (2014:70), lack of team work limits the stakeholders' inclination to share ideas and knowledge on how a particular policy, programme or project could be implemented.

3.7.3 Lack of communication

Lack of communication is another factor that contributes to policy implementation failure (Rahmat, 2015:310). Not communicating or not communicating enough, restricts the sharing of information amongst policy stakeholders about the particular policy being implemented (Rahmat, 2015:309). As a result, the lack of communication between target groups and policy implementers could lead to the implementation of a policy or programme that target groups do not find useful (Rahmat, 2015:309).

3.7.4 Lack of capacity

If policy implementers are not capacitated and do not have the skills to implement a policy, the policy, programme or project can fail. When implementing a policy, the policy implementers should have knowledge about the policy that they are implementing (Rahmat, 2015:309). Lack

of knowledge about the policy being implemented could lead to implementation failure. Implementation usually fails when the policy goals and objectives are not clearly and accurately outlined to policy implementers (Rahmat, 2015:309).

3.7.5 Lack of resources

Rahmat (2015:311) states that lack of human and financial resources can lead to implementation failure. The resources which are available must be effectively and efficiently used for implementation processes (Rahmat, 2015:309). In this regard, the abuse of resources often leads to policy implementation failure (Rahmat, 2015:309).

3.7.6 Lack of public involvement

Public involvement in policy implementation is of crucial importance (Rahmat, 2015:309). It is important to actively involve the public in decision making and policy implementation to avoid implementing programmes, projects and policies that the public is not aware of (Rahmat, 2015:309).

3.7.7 Corruption and fraud

According to Rahmat (2015:309), corruption and fraud is another challenge that has greatly contributed to the failure of policy implementation. The personal use of resources that are supposed to be used for implementing a project, programme or policy by policy implementers or stakeholders, hinders successful policy implementation (Rahmat, 2015:309). Such corruption depletes project, policy or programme resources thus negatively affecting the implementation process (Rahmat, 2015:309).

3.7.8 Lack of commitment and staff shortages

Lack of dedicated staff also hinders successful policy implementation as the staff may not be committed to what they do (Rahmat, 2015:309). According to Rahmat (2015:310), sometimes staff is available but are not fully committed to implementing the policy. There may also be a high rate of absenteeism and, as a consequence, day-to-day implementation activities are not done because of staff shortages. This delays the process of implementation and can sometimes lead to implementation failure (Rahmat, 2015:310). Policy can also fail if there is a shortage of staff to implement that policy (Rahmat, 2015:310)

3.8 Conclusion

Chapter 3 described public policy as the relationship between government and its environment. The decisions in public policy making are made by the government. The policy making process consists of several stages, one of which is policy implementation. Policy implementation refers to the transformation of what is written down in policy documents into reality. This chapter distinguished between the top-down and the bottom-up policy implementation approaches. It is important to note that the top-down approach makes decisions from the top level and ignores public participation whereas the bottom-up approach encourages public participation. The chapter further reveals that policy implementers need to take into consideration various factors in order for the implemented policy to be successful. These factors include stakeholder engagement, team work, good communication and the need to capacitate policy implementers. Factors that hinder successful implementation were also discussed.

CHAPTER 4

POLICY AND LEGISLATIVE FRAMEWORK

4.1 Introduction

People who migrate from one place to the other are regulated by a variety of legislation. Migration can be defined as "the crossing of the boundary of a political or administrative unit for a certain minimum period of time. It includes the movement of refugees, displaced persons, uprooted people as well as economic migrants" (United Nations, 2013:1). This chapter provides the policy and legislative framework for migration. Various frameworks on migration are outlined and discussed beginning with frameworks at the international level, an example of which is the United Nations Declaration of Human Rights (UDHR) of 1948, This is followed by African (including the Organisation of African Unity (OAU) Convention of 1969), regional (including the Southern African Development Community (SADC) Protocol on Facilitation of Movement of Persons of 2005) and South African (amongst others the aforementioned Immigration Act 13 of 2002) frameworks. The chapter ends with an overview of University of KwaZulu-Natal's (UKZN) policy regarding international students.

4.2 International frameworks on migration

Three frameworks are identified and discussed below.

4.2.1 The United Nations Declaration of Human Rights (UDHR) 1948

The United Nations describe the term migrant as "any individual who lives temporarily or permanently in a nation where he or she was not conceived in, and has gained some significant social connections to this nation" (UDHR, 148:1). Migrants are consequently, at times, confronted with circumstances which disregard their human rights (UDHR, 1948:2). The United Nations General Assembly reacted to these issues by passing the United Nations Declaration of Human Rights in 1948 (UDHR, 1948:1). This declaration serves to teach, educate and promote respect for both member states themselves and amongst other territories under their jurisdiction (UDHR, 1948:1).

Article 2 of the United Nations Declaration of Human rights states that all the rights and freedoms that are stipulated in the declaration are entitled to everyone regardless of race, color, sex, language, religion, political or other opinion or social origin, property, birth or other status. The declaration further regulates that no-one must be excluded from these rights because of their country of origin (UDHR, 1948:2). As indicated by the UDHR (1948:7), Article 26

additionally underscores the right to access quality education in all education levels regardless of the country of origin.

4.2.2 The International Convention on the Protection of All Migrant Workers and Members of their Family (ICRMW) 1990

The International Convention on the Protection of All Migrant Workers and Members of the Family (ICRMW) was adopted on 18 December 1990 (ICRMW, 1990:2). This Convention defines a migrant worker as "a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national" (ICRMW, 1990:2). It is the most far-reaching global settlement managing the rights of migrant workers as well as their families. A majority of the articles in the ICRMW spell out the rights that are already articulated in the UDHR as well as the International Covenant on Civil and Political Rights (ICCPR) (ICRMW, 1990:5).

Section two, Articles 8-35 of the Convention, regulate a wide arrangement of rights for every migrant worker as well as individuals from their families regardless of their migration status (ICRMW, 1990:5). Article 30, specifically establishes the rights of migrant workers' children to access education on the basis of equality of treatment with citizens of the state concerned (ICRMW, 1990:7). Moreover, the children of migrant workers should not be denied access to education with respect to the stay or work of their parents (ICRMW, 1990:7).

4.2.3 The United Nations International Covenant on Civil and Political Rights (ICCPR) 1966

Article 21 (1) of the Covenant gives citizens as well as non-citizens the right of liberty of movement and the freedom of deciding where they would like to live within that particular region (ICCPR, 1966).

4.3 African frameworks on migration

Two frameworks applying to the African context are outlined and discussed below.

4.3.1 The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa 1969

The Organisation of African Unity (OAU) Convention was introduced in 1969 with the aim of addressing the problems that are faced by refugees in Africa (OAU Convention, 1969:1). The term refugee is defined by Article 1 of this Convention as a *"person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of*

habitual residence in order to seek asylum in another place outside his country of origin or nationality" (OAU Convention, 1969:2).

In spite of ensuring the principal rights and safety of refugees, this Convention further enforces some obligations on refugees (OAU Convention, 1969:3). These obligations are enforced in Article 3 which states that the refugees are required to abide by the rules of the country in which they are legally admitted (OAU Convention, 1969:3).

4.3.2 The African Charter on Human and Peoples' Rights (ACHPR) 1981

The African Charter on Human and Peoples Rights (ACHPR) was adopted on 27 June 1981 (ACHPR, 1981:1). The Charter spells out the rights and freedoms of individuals residing in Africa (ACHPR, 1981:1). For instance, Article 2 of the ACHPR states that individuals in Africa have the right to enjoy all rights and freedoms without being excluded on the basis of race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status (ACHPR, 1981:2). The ACHPR (1981:2) further regulates the right to freedom of movement within the territory of a state on condition that he or she abides by the law.

4.4 Regional frameworks on migration

The Southern African Development Community (SADC) was formed in 1992 (SADC Treaty, 1992:1). The SADC included 15 nations, namely, Zimbabwe, Zambia, Tanzania, Swaziland, South Africa, Seychelles, Namibia, Mozambique, Mauritius, Malawi, Madagascar, Lesotho, Democratic Republic of Congo, Botswana and additionally Angola (SADC Treaty, 1992:1).

Two conventions (protocols) relevant to the study are outlined below.

4.4.1 The SADC Protocol on the Facilitation of Movement of Persons 2005

The SADC has a range of conventions, one of which is the Protocol on the Facilitation of Movement of Persons (SADC, 2005:1). This Protocol aims to facilitate the entry of persons from one state to the other. A goal of the Protocol is to facilitate permanent as well as temporary residence of persons who are within the boundaries of a state other than their country of origin. According to the Protocol (2005:8), individuals who wish to reside inside an SADC member state must be in possession of a residence permit. Residence, in terms of the Protocol, means "permission or authority to live in the territory of a State" (SADC, 2005:8).

In order for one to obtain a residence permit they should complete an application permit in their own nation (SADC, 2005:8). When this has been endorsed they can relocate to the host nation

and the residence permit can be renewed as per the laws of state party concerned (SADC, 2005:1). Article 20 regulates that like all citizens in the host country, non-citizens who have residence permits have the right to enjoy the rights and privileges that are offered by the host country (SADC, 2005:9). These rights and privileges include the right to education, shelter, safety and security and to be protected by the rule of law in the host country.

4.4.2 The SADC Protocol on Education and Training 1997

The SADC Protocol on Education and Training was introduced in 1997 with the key goal of providing a framework for regional co-operation in addressing education needs (SADC, 1997:11). The member states agreed to recommend to universities and other tertiary institutions in their countries to reserve at least five percent of admissions for students from SADC member countries other than their own (SADC, 1997:11). Moreover, member states agreed to provide similar treatment for students from other SADC countries (SADC, 1997:11). This comparative treatment ensured that students from the SADC countries are dealt with like home students with regards university fees and accommodation (SADC, 1997:11).

The SADC Protocol on Higher Education and Training (SADC, 1997:11), states (in summary) the following for postgraduate student admissions:

a) The SADC States accept that a satisfactory qualification as stipulated by the receiving higher education institution will allow for admission into the postgraduate degree programme of an institution within the region.

b) The member states decided that number of students admitted must demonstrate a more significant mix of students from other SADC countries than would be the case at the undergraduate level.

c) Member states agreed that, where necessary and appropriate, preference in admission should be given to socially disadvantaged groups and, also where necessary, the government should grant scholarships for such groups.

d) Member states undertook to give the resources needed (including qualified staff, physical infrastructure and technology) to enable their universities to provide and develop postgraduate programmes of appropriate quality.

4.5 South African framework on migration

Four pieces of legislation (including the Constitution) relating to the South African framework are presented below.

4.5.1 The Aliens Control Act of 1991

The Aliens Control Act of 1991 was the last apartheid legislation passed (RSA Aliens Control Act, 1991:1). The term "alien" was used to describe an individual or person that was not a South Africa citizen. This legislation was introduced in 1991 and was applied from the years 1991 to 1994 (RSA Aliens Control Act, 1991:1). In 1995 the Act was amended and replaced by the Aliens Control Amendment Act of 1995. The Aliens Control Act of 1991 provided "for the control of the admission of persons to, their residence in, and their departure from, the Republic; and for matters connected therewith" (RSA Aliens Control Act, 1991:2). This legislation was introduced in order to discourage people who were not South Africa citizens from coming into the borders of South Africa. The study permit provision was contained under Section 26 (1) (d) and stated that study permits could only be obtained by an outsider who applied for authorisation to enter the nation as a student (RSA Aliens Control Act, 1991:13)

4.5.2 The South African Qualifications Authority Act 58 of 1995

The South African Qualifications Authority Act 58 of 1995 objective is to provide for the execution of the National Qualifications Framework in order to establish the South African Qualifications Authority (SAQA) (RSA SAQA Act, 1995:1). One of the functions of SAQA, as outlined in Section 5 of the South African Qualifications Authority Act 58 of 1995, is to assess remote qualifications (RSA SAQA Act, 1995:1). It is under this function that the validity of international students' qualifications must be assessed in order for them to be admitted for postgraduate studies in South Africa (RSA SAQA Act, 1995:1).

4.5.3 The Constitution of the Republic of South Africa 1996

The Constitution of the Republic of South Africa has rules and regulations for all who reside within the borders of the Republic and the rules and regulations stipulated must be fulfilled (RSA Constitution, 1996:3). South Africa is a democratic country and Chapter 2 of the Constitution therefore promotes the rights that people who reside within the borders of South Africa are entitled to (RSA Constitution, 1996:6). Chapter 2, Section 9 of the Constitution states that everyone has the right to equal protection as well as equal benefits of the law (RSA Constitution, 1996:7). This means that South African citizens as well as non-South African citizens are entitled to enjoy all rights and freedoms in South Africa (RSA Constitution, 1996:7).

According to the Constitution (1996:13), everyone has the right to access health care including reproductive health. It is under this regulation that non-South Africa citizens access health care

services in the host country. The right to education is set out in Section 29 as follows: "everyone has the right to a basic education, including adult basic education and to further education, which the state, through reasonable measures, must make progressively available and accessible" (RSA Constitution, 1996:7).

4.5.4 The Immigration Act 13 of 2002

The Immigration Act 13 of 2002 regulates the issuance of temporary and permanent residence permits to foreigners wishing to reside in South Africa and ensures efficient and effective renewal processes (RSA Immigration Act, 2002:2). The preamble to the Act includes directives for regulating transnational mobility across South Africa (RSA Immigration Act, 2002:2; Government Gazette, 2002:2). The Act reinforces human rights and discourages the act of xenophobia (RSA Immigration Act, 2002).

According to the RSA Immigration Act 13 of 2002, people who are coming into South Africa must enter through a port of entry. The legislation further regulates that in order for non-citizens to enter the borders of South Africa they must be in a possession of a passport that is to be valid for not less than 30 days after the expiry of the intended stay (RSA Immigration Act, 2002:2). They are also required to have a valid temporary or permanent residence permit (RSA Immigration Act, 2002:26). Temporary residence permits are permits that are issued to foreign nationals who are going to reside within the borders of South Africa on a temporary basis (RSA Immigration Act, 2002:26). Visitor's permits, diplomatic permits, work permits, treaty permits, business permits as well as study permits are all examples of temporary permits (RSA Immigration Act, 2002:27).

The Immigration Act 13 of 2002 stipulates that foreign students can only obtain a study permit if they are to study in South Africa for more than three months. According to the Government Gazette, the Immigration Act stipulates that in order to obtain a study permit, foreign students must:

1) Be accepted at a registered South African university or institution and are able to produce proof of such acceptance.
2) Guarantee that they will be able to pay tuition fees for the particular higher education institution they are accepted in; and
3) Prove that they will be able to financially support themselves for the period that they will be residing in South Africa.

The Department of Home Affairs (2018:1), confirms but adds to the requirements listed above. It states that to obtain a study permit, a foreign student needs:

1) An official letter from a relevant institution confirming provisional acceptance at the institution and the duration of the course.
2) Proof of medical cover recognised in the Republic.
3) Proof of sufficient funds to cover tuition fees, subsistence and incidental costs.

4.6 University of KwaZulu-Natal (UKZN) policies for international students

The University Of KwaZulu-Natal (UKZN) is recognised worldwide for its excellence in teaching and research and all the degrees available at the university are recognised internationally. According to the UKZN (2016:5), "this university has formal links and exchange programmes with universities around the world". The UKZN (2016:5) further states that it has a strong relationship with different universities in Asia, USA, Europe and Africa. The UKZN provides a vibrant environment for basic and applied research and offers internationally recognised postgraduate research degrees in all disciplines (UKZN, 2016:4).

The UKZN also complies with the Department of Home Affairs policies such as the Immigration Act 13 of 2002 (UKZN, 2018:20). This legislation prohibits universities from registering international students who do not hold a valid study permit (UKZN, 2018:20). This permit cannot be applied for in South Africa but students are obliged to apply for a study permit in their country of origin (UKZN, 2018:20). The postgraduate entry requirements state that candidates should have completed their bachelor's degree, honours degree as well as master's degree in order for them to qualify for a PhD (UKZN, 2018:19). In addition, international students are also required to submit their qualifications to SAQA (see above) for evaluation before they apply to the university (UKZN, 2018:19).

4.6.1 Postgraduate admission requirements

There are certain requirements that should be met by international students in order to be admitted to the UKZN (UKZN, 2016:7). According to the university (UKZN, 2016:17), the procedure that is followed is based on academic performance as well as the number of available spaces. In order to be admitted for an honours degree, international students are required to have completed a three-year bachelor's degree (UKZN, 2016:17). In order for international students to be enrolled for a master's degree they ought to have completed both a bachelor's degree as well as an honours degree (UKZN, 2016:17). First-time applicants for postgraduate

admission at UKZN are required to pay an application fee of R470. However, international students that have been enrolled in the past year are not required to pay the application fee (UKZN, 2018). International students who have been out of the UKZN system for two or more semesters are required to pay the standard application fee (UKZN, 2018). Lastly, as noted above, the UKZN requires international students to get their existing qualifications assessed by SAQA before submitting their application to the university (UKZN, 2016:17)

4.6.2 Registration process for international students

The postgraduate international students who have been accepted at UKZN and hold a valid study permit further need to obtain a certificate of clearance from the International Office of the University for the purposes of registration (UKZN, 2018). These students are required to submit the following documents in order to obtain a certificate of clearance:

1) A passport valid for one year.
2) A study permit obtained from the South African embassy in the student's home country.
3) Proof of medical aid cover. A medical aid is one of the fundamental migration prerequisites when apply for a study visa.

4.7 Conclusion

The movement of people is governed by different legislation in different countries. The United Nations as well as the African continent uses declarations as well as conventions to make provision for migration within the United Nations and in Africa. These declarations and conventions outline the provisions, regulations as well as rights of migrants in their host states. The SADC comprises 15 countries which are referred to as member states. Through various protocols, the member states agreed on how international students from the SADC should be treated when they pursued their studies in any of the SADC states. While some SADC protocols outline the movement of people in the SADC member states, other protocols are concerned with higher education and the requirements for admission to tertiary institutions in the member states.

South Africa also has legislation on the movement of people. Legislation such as the Aliens Control Act of 1991 was the last piece of legislation that regulated the entry of migrants in South Africa before democracy. The Constitution is one post-apartheid piece of legislation and it states the rights that citizens as well as non-citizens have within the borders of the country. The Immigration Act 13 of 2002 also regulates the movement of persons in South Africa.

International postgraduate students studying at UKZN were the focus of this study and, given this, the policies governing their admission into the institution were outlined, including the requirements they have to meet and the application and registration procedures they have to follow.

CHAPTER 5

FINDINGS AND ANALYSIS

5.1 Introduction

This chapter presents the findings and analysis of the data stemming from the two focus groups conducted with the sample of foreign African postgraduate (PhD) students at the UKZN (PMB Campus) as well as in-depth interviews conducted with the two UKZN postgraduate administrators one of whom was from the International Office and the two Assistant Directors from the Department of Home Affairs (permits). The chapter explores the experiences of the students in accessing and renewing their study permits. The chapter also explores (through interview responses) the experiences of the Department of Home Affairs officials (the main managers of study permits) in assisting foreign African students to access study permits as well as the experiences of the UKZN administrators on the PMB Campus.

As noted in Chapter 1, the respondents' responses are coded as AD1 - Assistant Director, AD2 - Assistant Director, PA - Postgraduate Administrator, IO - UKZN International Office, FG1-Focus Group 1 and FG2-Focus Group 2. Responses are provided verbatim and in italics.

The findings as they relate to issues raised in the theoretical framework and literature review are presented and discussed below.

5.2 Policy implementation and programme delivery: managers and administrators' experiences

The first of the findings are those relating to the experiences of the Department of Home Affairs officials and the two postgraduate administrators at the UKZN (PMB Campus).

5.2.1 Conceptions of public policy

The OECD (2013:3) defines regulatory policy as a policy that stipulate the rules that needs to followed and people who fail to abide by these rules are punished.

The Department of Home Affairs Assistant Directors' understanding of the Immigration Act 13 of 2002 was:

Immigration Act is enacted to regulate the entry, departure and stay in of foreigners in the country. (AD-2*)*

I would say the Immigration Act is there to regulate all the administrative responsibilities and duties towards any foreigner who wants to come and resides on a temporary basis in South Africa, be it either for work, study or accompany a husband for example who is on a work. There are various visa types, they can retire here, and they can come on medical visas. In short the Immigration Act regulates and stipulates all the requirements and all the responsibilities of various parties in administrating the foreigners coming to South Africa. (AD-1)

According to Rahimi (2011:174) regulatory policies deals with bad behaviour in the form of punishments and sanctions.

The response of one of the assistant directors in this regard was as follows:

We reject fraudulent applications and we put you in the stop list and we expect you to leave the country and if you come back without being removed from the stop list so if you enter it means you have entered illegally. (AD-2)

According to the OECD (2012:9), effective communication with stakeholders is of growing importance to secure ongoing support for regulatory quality work.

An assistant director explained that:

Like I said we have very good communication and relationship with the universities and with some of the medical aids, so we will always verify especially training and communication and workshops with the university or the international help desks of the universities that happen on the regular basis to basically tell them what we need and what is required and basically to ask for record operation if the student does not pitch for study to inform the department. So other than communication to all the stakeholders there is not a lot that you can do but to try your utmost to prevent every possibility of fraud. (AD-1)

5.2.2 Experiences of street-level bureaucrats as policy actors

Lipsky (2010:4) describes street-level bureaucrats as people who work for government or in government programmes to deliver services. Erasmus (2010:1) describes street-level

bureaucrats as "the frontline workers or policy implementers in government agencies such as the health service, schools or police service."

The UKZN administrators explained their role in implementation:

> *Ok our main role is to check their documents to see if they are here legally. To check if they comply with the immigration act, we check if they have a valid passport, valid visa and medical aid as you know they have to have medical aid because they don't pay ok that is not the only reason but that is one of the reasons that they don't pay repatriation fee anymore so these service providers they pay repatriation and should they get sick or admitted for any reason we want to make sure that they are taken care of that is why they have medical aid.* (IO*)*

> *Aaah we assist them by printing the application documents if they sent them through email. And then we assist them by writing a letter for them if they accepted write a letter for them so they can take to the embassy to apply for a visa. And then we assist them at times not always with the letters that prove that they have accommodation in South Africa because some embassies they don't want to give them visa if you don't say that UKZN has given them accommodation.* (PA)

One of the essential characteristics of street-level bureaucrats is that they interact face-to-face with their clients (Cohen and Gershgoren, 2015:270).

An administrator explained that:

> *"If they apply they give it to me, I check if everything that is needed is in the application and then we give it to representatives, different disciplines have different people who look into the application so the person from the discipline will look if they qualify and then that person will sign and the form will come back to me and then it goes to the head of school for the second signature. And if the first time applicant it will go to student academic affairs for them to generate a student number.* (PA)

The second administrator said:

> *And we also as you know that there are different categories SADC, Asylum seekers, non SADC refugees so when we check their papers we indicate kwisystem ukuthi this is SADC because leyo inama financial implications that's why finance do not remove a*

hold before we remove our hold because we need to indicate so that they will know how to charge them so we indicate we got codes K, F, N yah depending on where they come from. (IO)

Lipsky (1980:29) states that there are various challenges that are faced by street-level bureaucrats. One of the challenges is scarce resources. Despite this, the street-level bureaucrats are still dedicated to supplying or rendering services to the clients or citizens (Cohen and Gershgoren, 2015:269).

In terms of challenges, an administrator pointed out that UKZN PMB does not have an interpreter or a language institution that assists international students who do not understand English:

> *There are other challenges njenge language barrier you know you get student from say DRC they don't speak English they speak French but there is a language institution again that is a challenge we don't have it here anymore it is outside the institution so we refer students to them fortunately they learn fast but there are other minor challenges for example you find that you are talking to students and say "Okay give me a certified copy of your passport and study permit" they will keep giving you a copy that is not certified they don't understand what certifying means, if you ask for an affidavit they don't understand what that is so you see as a South African you think that is general knowledge so as an office we learn from these students.* (IO)

5.2.3 Factors that contribute to successful policy implementation

Various factors contributing to successful policy implementation were outlined and discussed in Chapter 3 and findings in this regard are presented below.

Capacity

Successful implementation of a policy requires policy implementers to be capacitated and have knowledge about the policy that they are implementing (Rahmat, 2015:309). Brinkerhoff and Crosby (2002:39) add that policy implementation requires managers to understand the tasks they need to perform, including the management of standard operating procedures.

To support this, an assistant director said:

> *I was the supervisor. I would receive the applications. I will assign it to the adjudicator. It will be returned to me for quality check and then I would just assign it to the person who will update it to the movement control system.* (AD-1*)*

The second assistant director stated:

> *My role is to allocate work it is to assign work. The visa application I allocate them to different adjudicators.* (AD-2)

Stakeholder engagement

According to Brinkerhoff (2002:23), no individual stakeholder can manage policy implementation – it requires multiple stakeholders such as the government, individuals, civil society as well as the private sector.

An assistant director elaborated on this issue:

> *Remember currently we outsource the receiving function, it's done somewhere so you normally what you do you apply online from there you make appointment with that company in order to submit the supporting document requirement with VFS global.* (AD-2)

Communication

Communication is one of the many important factors that contribute to successful policy implementation (Rahmat, 2015:309). When implementing a certain policy, communication can be used to share information amongst stakeholders, including target groups, about the particular policy being implemented (McLean, 2012:63).

To support this, an assistant director stated:

> *Like I said we have very good communication and relationship with the universities and with some of the medical aids, so you will always verify especially training and communication and workshops with the university or the international help desks of the universities that happen on the regular basis to basically tell them what we need and what is required and basically to ask for record operation if the student does not pitch for study to inform the department. So other than communication to all the stakeholders*

there is not a lot that you can do but to try your utmost to prevent every possibility of fraud. (AD-2)

5.2.4 Factors that contribute to policy implementation failure

Findings related to policy implementation failure are presented below.

Corruption and fraud

According to Rahmat (2015:309), corruption and fraud are challenges that have greatly contributed to the failure of policy implementation. The Department of Home Affairs participants identified fraud as one of the frequent challenges they face when processing study permit applications.

In terms of fraud an assistant director responded:

> *Errh the challenge that we have we receive a lot of fraudulent documents submitted with applications, abuse of particular category visas, what else Eerh system is working well we don't have the problem with the system. We do have students who complain about the service so they normally send their complaints via email and sometimes we do visit Universities to try to show them how to apply for study visas.* (AD-2)

This was confirmed by the second assistant director:

> *My negative experience is that sometimes we will get fraudulent documents and that the numbers of applications that we receive are very large numbers. The problems we would have with these students is the fact that they would come here on study permits with these fly by night schools that will teach them English and stuff like that they will take chances to receive a study with an organisation or institution that you know is not registered anywhere that's basically the problem. Students who are here apply for a study visa, they don't pitch at the University some of them pretend to be studying for ten years various course so unfortunately I think sometimes they do abuse study visa just to obtain temporary residence in South Africa. But I must also say that there are these students who meet all the requirements and that are here with the correct intentions to study.* (AD-2)

5.3 Foreign African postgraduate students' experiences

The findings relating to the experiences of the students themselves are now presented.

5.3.1 Reasons for studying in South Africa

In Chapter 2 (the literature review) various reasons were put forward as to why students chose to study in a foreign country. The findings below provide the perspectives of the students in this regard.

Proximity to country of origin

According to (Buthelezi, 2009:1), one of the reasons that push international African students to pursue their tertiary education in South Africa is because South Africa is close to their country of origin. Chimucheka (2013:92) provides another reason stating that international students choose South Africa as their country of study because it is one of the countries that are well-known to have a good quality of higher education.

One student replied as follows:

> *I will start….. errh why did I decide to study in South Africa? One because it is close by, I stay in Swaziland. And also the level of….. I felt that academic level compared to the University in Swaziland is better this side, and also that I have family this side.*
> (FG-1)

Another student added:

> *Well I wanted to be closer from home which is Nigeria. I know geographical it's not close but when you studying in Africa and you from Africa it feels like you home.*
> (FG-2)

Recommendation from family and friends

Wilkins and Huisman (2011) state that international students usually seek recommendations from friends who are already in, and have experience of, a particular higher education institution in a foreign country.

One focus group respondent stated:

> *Myself I came to study and not to study at the University of KwaZulu-Natal I initially wanted to become a Roman Catholic Priest. When I was leaving my friend who are sent to different countries to study envied me because they said South Africa have the best universities and we wish we are you because South Africa is rated high in Kenya in*

terms of education. So I came here to study, to study theology that was and I finished afterwards I left I came to did my masters here at the University of Kwa-Zulu Natal. (FG-1)

Another student added:

> *I decided to choose South Africa because of a number of reasons number one somebody mentioned to me some time back that the educational system especially at the postgraduate level is ok in comparative sense in what is obtainable in some other countries. But the undergrad content may not be as rigorous as what you find in other countries so perhaps that is why you find more international students who come for a more research intensive especially the research based degrees.'* (FG-2)

Availability of academic programmes

According to Mda (2010:5) another reason for international students being attracted to South African universities is the fact that the programmes and courses available are not always offered in foreign countries.

One focus group respondent said:

> *Well I think that is a very easy question. I came to South Africa because there programme I wanted to enroll in which is politics is available in South African universities.* (FG-2)

Another respondent was quite specific:

> *My part I came here for the academic programme.* (FG-1)

For some international students, studying in South Africa was just a desire to leave home and be independent as they are far from their parents' eyes (Evevie, 2009:4).

To support this a student said:

> *Well I came here to have a feel of another environment, let me put it like that.* (FG-1)

Bursaries and scholarships

In higher education institutions students are characterised in two distinct ways (Altbach and Knight, 2007). There are those who study on a scholarship and there are those who are self-funded (Altbach and Knight, 2007). These characteristics apply to both local students as well as international students. Therefore, there are international students who chose South Africa as a country to pursue their studies because they received scholarships.

One student replied as follows:

> *Well coming to study in South Africa was not really my decision, I came here through a scholarship the Zimbabwean Presidential Scholarship so that how I came to study in South Africa. It wasn't my choice.* (FG-2)

Another student added:

> *Well for me it was the first option. I applied to different countries, but eeerh I did not get a sponsorship to some of them, so me taking the decision to come to South Africa was the best option at that time.* (FG-1)

5.3.2 Challenges faced by international students

As discussed in Chapter 2 various challenges are faced by students when studying in foreign higher education institutions. The challenges mentioned by the students are outlined below.

Delays/Waiting period

One of the problems faced by international students when applying and renewing their study permits is having to wait a long period of time before their study permits are approved (Baki and Talebloo, 2013:143).

One student, referring to the situation in Zimbabwe, said:

> *Well errhm I have 5 different experiences when applying for a study permit. I only applied in Zimbabwe in 2015 when I was coming to do my PhD. It was a horrible experience because everyone you know South Africa has one embassy it's in Harare. So everyone descends on that embassy from every part of the country. The queues are just too long, the process is just disorderly for you to get to the premises of the embassy and start applying it might take 5 days or even one month or so the process is just*

disorderly. So in most cases when you go after 3 weeks to fetch your study permit they will tell you that no your permit is not ready you need to come back again. (FG-2)

Another student added:

They were not good. It was two years of stress and I could not leave the country some of my bank accounts were frozen because I did not have a legal permit even though I applied on time. But still application of the study permit is a very stressful process but we have no option because we came here to study so we have to bear the challenges and difficulties that come with the application processes. (FG2)

Documentation

The study by Dzansi and Monnapula-Mapesela (2012) outlined the documentation difficulties that international students faced when applying for study permits, mostly in South Africa and also in their country of origin. International students often find themselves having to go back to their homes to fetch missing documents because failure to do so could lead to the study permit application being declared incomplete and subsequently declined (Baki and Talebloo, 2013:144).

One focus group respondent immediately identified with the documentation issue:

Yes yes, when I was applying I went through hell because like ok at first I was denied I was denied in the ground that the bank statement or the proof of finance that I submitted they said that there were no adequate funds in the account. And when they denied me, they did not return all those documents that I had submitted so I had to gather all those documents including proof of medical check-up, radiological report, medical certificate and all those things so I had to go through the processes to get all those things because they needed original copies of some of them. There was also no time you know because when they deny you they give you 10 days to appeal. So I went through hell. So those were the negative experiences I encountered. I do not think there was anything positive. (FG-2)

This was confirmed by another student who said:

Oh yes yes, they gave me 8 months on my permit yet the school admission letter was stating that my programme was a 4 year programme but they still gave me 8 months that was in Zimbabwe, that's why I had to renew my permit here in South Africa that's

how I got the experience of VFS, that was the problem when I asked them to correct it they were very hostile, they told me I must correct it here in South Africa when the 8 months elapses. Another problem is getting proof of residence here is really difficult here to get a proof of residence because our landlord requires us to pay rentals so it's very difficult. (FG-1)

A third student added:

I had the challenge of missing documents and in my case it was a South African police clearance. I remember properly I submitted my application it was in July 2014 and I received a response in September 2014 that is 3 months full saying that my application was rejected and I was allowed to appeal. And the time I appealed I had the police clearance already and from September 2014 I only received feedback in October 2016 so after 2 years of waiting for a pending visa. And yeah it took some time and it's a stressful processes. (FG-2).

Unfriendly officials

According to Gumbo (2014:35), immigration officials working at the Department of Home Affairs or the embassy are said to be very unfriendly and rude to international students wanting to apply for study permits.

A student stated:

And then when you get in there the staff is not really welcoming maybe because they are over worked, they are not very friendly, you leave your documents there they will tell you to come fetch your permit after 3 weeks. (FG-1)

Another student added:

You find there you went into the office someone does not even want to talk to you, looks at you and asks you what do you want. You tell them I want to renew my visa I have all the documents, but don't even want to talk to you. So you have to plead, beg, almost kneel so that they can attend to you. I remember one document was missing I had to go back all the way to Howick because that's where I was residing and back. And when I submitted the document again no nice treatment. (FG-2)

Finances

Bojuwoye (2002) pointed out that financial constraints remain an endless problem for many international students in universities.

One student explained:

> *Financial economic problems. For you to get a study visa here is expensive, you need to pay repatriation fee which was about 5000 rand that is expensive because that is equivalent to 50000 Kenyan shillings by then you can buy a small piece of land and then if you want to leave this country then they will give you that repatriation fee back and you get it back in your country until recently they told us that if you want your money you can come and get it.* (FG-1).

A second student added:

> *Another problem is that when I applied in Harare I stayed in Bulawayo so it's 400 kilometers to Harare so it's very difficult to travel from Bulawayo to Harare especially when in processes where you don't know whether you going to submit your documents and you will be asked to come back the next morning. So yeah that was another challenge.* (FG-1)

Xenophobia

According to Chimucheka (2013), discrimination is one of the frequent challenges encountered by international students in the host country. Discrimination in most instances leads to the act of xenophobia (Chimucheka, 2013).

Chimucheka's contention was confirmed by a respondent:

> *Renewing the visa here in this country is terrible. I have an experience in renewal when they were still doing manual system. I went to PMB to submit my documents. And errh I saw xenophobia, the xenophobia, not the obvious xenophobia but the hidden xenophobia. So it was like everyone fear to go to the office. I can't remember the name we nick named that place but it has a feeling like you are going to a police station, it's like that abuse, verbal abuse. So you feel the feeling of xenophobia. Actually that was 2 years after the most violent xenophobia in South Africa. So there was no nice treatment.* (FG-1)

However, Egbeniga (2013:52) in her study found that there were students who have never encountered problems when applying and renewing their study permits.

This was confirmed by a focus group respondent:

> *No I have not had any problems maybe because I was fortunate to have all what was required because you must understand that when applying for some of these things they may require for some things and applicants or applications are different in terms of case by case basis sometimes you may want a certain document and an applicant may not have it as it is stated so it is now left for those who are reviewing documents to understand that is it something that can be applied in place of what is requested. I think people who are coming for studies should not be rejected I have had one or two complaints before but me I haven't.* (FG-2)

The necessity of having the correct documentation was pointed to by another student:

> *"Well for me I think it was quite easy because I knew right from time that there are so many people who want visa to get into South Africa. So I did my own work contacted a lot of people got the information I need and eerh I got those document and I applied"* (FG-2).

5.4 Conclusion

This chapter presented the analysis and findings of this research conducted via interviews (in-depth and focus group) with various participants. The findings were analysed using both the theoretical and policy and legislative frameworks. The findings reveal that the most common challenge faced by implementers is the number of foreign students' applications received and that some of these applications are fraudulent. The study has also revealed that the implementers of the Immigration Act 13 of 2002 (the Department of Home Affairs officials as well as the street level bureaucrats) clearly understood the roles that they have to play in providing services to the beneficiaries of this legislation.

In terms of the respondents' reasons for choosing South Africa as their destination country, the findings are in agreement with the literature. Reasons included the proximity of country of origin, and the availability of academic programmes and quality education. However, it is

important to note that the journey of foreign students is not an easy one as they encounter various challenges including language barriers, xenophobia, lengthy delays as well as financial and accommodation challenges.

CHAPTER 6

CONCLUSION

This study aimed to investigate issues relating to the implementation of the Immigration Act 13 of 2002 and the obtaining of study permits by foreign African postgraduate (PhD) students at the UKZN (PMB Campus).

As outlined in Chapter 1, the study sought to investigate and understand:

- The reasons for foreign African postgraduate (PhD) students coming to study in South Africa.
- The application processes and policies for foreign African postgraduate students to study in South Africa.
- The systems and structures in place at UKZN for foreign African postgraduate students to facilitate their studies.
- The challenges that UKZN PMB foreign African postgraduate students face in accessing study permits.
- The experiences of UKZN administrators in dealing with foreign African students' applications.

The postgraduate student participants indicated that South Africa is one of the countries that is closer to their country of origin and is well-known to have the best higher education institutions on the African continent. These are the main reasons for the participants choosing this country to pursue their PhD qualifications. Other reasons which influenced them to come and study in South Africa included receiving scholarships and recommendations from close family and friends who had experienced being in South African institutions and UKZN in particular. It was also found that the foreign African postgraduate students were attracted by the academic programmes available in South Africa – programmes which they did not have access to in their country origin.

Moving forward, the Department of Home Affairs participants understood the purpose of the Immigration Act 13 of 2002. These participants also understood the role they play when processing study permit applications. Furthermore, the study found that when the Department of Home Affairs implements this legislation it encounters various challenges including fraudulent documentation being submitted in a number of the applications.

The UKZN administrators also understood the role they are required to play when assisting international African postgraduate students. Furthermore, the administrators have a clear understanding of the processes and the requirements (such as the relevant documentation) that international students need to meet in order for them to be admitted to the university. Also identified in the study were the challenges faced by the administrators when interacting with the foreign African postgraduate students. One such challenge was the language barrier which made communication between the administrators and the students difficult.

Lastly, the study determined the challenges faced by the foreign African postgraduate students when applying for study permits. It is important to note that majority of the interviewed students obtained their study permits in their country of origin. Having said this, the study found that the foreign African postgraduate students experienced difficulties when applying for study permits in their home countries and also when renewing them in South Africa. These difficulties or challenges included standing for long hours in queues at the different embassies they applied at. Other foreign students faced the challenge of being denied a visa because they did not produce all the documents required. Furthermore, the study found that some of the students who renewed their study permits in South Africa faced challenges at the Department of Home Affairs including officials whose behaviour towards them bordered on being xenophobic.

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APPENDICES

APPENDIX 1

INTERVIEW GUIDE: INTERNATIONAL STUDENTS

1. Why did you decided to come and study in South Africa?

2. Who did you contact to apply for a study permit

3. Where did you apply for your study permit?

4. Who assisted you with your application at the University and coming into the

   country?

5. What were the different steps you followed when you were applying for a study

   permit

6. What were your experiences in applying for a study permit?

7. Were there any problems that you encountered when applying for a study permit?

8. How did you deal with those problems?

9. How did you get the renewal process?

10. What can be done to improve the application processes?

APPENDIX 2

INTERVIEW GUIDE: DEPARTMENT OF HOME AFFAIRS

1. What is your understanding of the Immigration Act 13 of 2002?

2. What is the aim/ purpose of Immigration Act 13 of 2002?

3. What requirements should foreign African students meet in order to obtain a study permit?

4. What are the different steps followed when processing these applications?

5. What are the procedures, systems and departments do applications go through?

6. What is your role in processing of study permit applications?

7. What are your experiences of processing these applications and assisting foreign African students?

8. Have you ever experienced any challenges? Explain with whom what are the specific issues?

9. Are your experiences the same or different with other foreign student's applications?

10. What have you done to address some of the challenges you face with processing applications?

11. What are some of the problems that students face in meeting your application requirements?

APPENDIX 3

INTERVIEW GUIDE: UKZN ADMINISTRATORS

1. What is the role of the international office/postgraduate administrator ?

2. What requirements should international students meet in order to be admitted at the University of KwaZulu Natal?

3. What are the required documents needed by international students in order to apply at this institution?

4. How do you assist international students in applying for admission at the University of KwaZulu Natal?

5. What processes do international students follow when applying for admission at the University of KwaZulu Natal?

6. What are the different steps followed when processing international student's applications?

7. How do you assist international students with the registration process?

8. What are your experiences in assisting international students?

9. What challenges have you encountered when assisting international students?

10. How have you dealt with these challenges?

11. How can the University of KwaZulu Natal Further assist international students?