

RIGHT TO THE CLASSROOM:
EDUCATIONAL BARRIERS
FOR ZIMBABWEANS
IN SOUTH AFRICA

RIGHT TO THE CLASSROOM: EDUCATIONAL BARRIERS FOR ZIMBABWEANS IN SOUTH AFRICA

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OPEN SOCIETY INITIATIVE FOR SOUTHERN AFRICA (OSISA)
2011

Published by Idasa, 6 Spin Street, Church Square, Cape Town, 8001, and
Southern African Research Centre, Queen's University, Canada.

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ISBN 978-1-920409-68-5
First published 2011
Design by Bronwen Müller

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Bound and printed by Logo Print, Cape Town

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EXECUTIVE SUMMARY

This report examines the obstacles to access by Zimbabwean children and students to schools and tertiary institutions in South Africa. There is a common assumption in South Africa that these children and students have no right to an education in South Africa. In fact, this view contravenes various international human rights conventions to which South Africa is a signatory. At the regional level, it is inconsistent with the SADC Education Protocol. At the national level, it violates the South African Constitution as well as legislation and stated government policies concerning the access of all children in the country to education. The question addressed in this report is whether school boards and principals follow popular sentiment or whether they honour international, regional and national obligations. The report focuses specifically on the case of Zimbabwean migrant children and students, following persistent reports that they are regularly denied access to the South African education system.

The report shows that school boards and principals are caught between contradictory instructions from the Departments of Education and Home Affairs. The former, acting in a way that is consistent with the Bill of Rights, directs that schools should not deny education to any child, regardless of their national origin or legal status in the country. The Department of Home Affairs, on the other hand, follows the directives of the 2002 Immigration Act which places schools in the position of having to enforce immigration policy. This contradiction certainly needs to be resolved and there is only one way this could be done: by amending the immigration legislation and regulations to make it clear that it is not the duty of schools to deny an education to some children or to report them to the authorities.

Levels of xenophobia are extremely high in South African society. Xenophobic attitudes culminated in widespread xenophobic violence in 2008 that left over 60 people dead and tens of thousands displaced from their communities. Among their number were many children. Migrant children were therefore directly exposed to the violence and venom of xenophobic mobs. Many more would have witnessed these disturbing scenes in the media. The other question addressed in this report is whether xenophobia permeates the school system as well. In other words, once the obstacles to school access are overcome, what kind of reception do migrant children receive from South African teachers and pupils. Some isolated case studies have suggested that non-South African children are not made to feel welcome in South African schools and that the xenophobic attitudes of parents are reproduced by their children. This study affords the opportunity to revisit this question and to ask how

Zimbabwean children are treated by their fellow learners and by teachers in the classroom and playground.

The report is based on research in six communities in Cape Town and Johannesburg conducted in September 2010 and examines the experiences of Zimbabwean migrant parents, children and students who seek to gain admission to public schools and tertiary institutions in South Africa. The report first examines the constitutional and legal rights of foreign migrants to an education in South Africa. The next section reviews the findings of previous studies that suggest that migrant children and students face significant difficulties and prejudice in South Africa. The ensuing sections of the report present and discuss our research findings on the current experiences of Zimbabwean migrants with the South African educational system. Finally, the report makes recommendations on how the situation can be improved.

INTRODUCTION

The eminent South African educationalist and Vice-Chancellor of the University of the Free State, Professor Jonathan Jansen, recently surprised many South Africans when he wrote in the *Sunday Times* that the government education system in Zimbabwe was superior to that in South Africa with dedicated, professional and hardworking teachers who placed children's interests above their own.¹ "If I were a desperate (South African) township parent who could not get my child into the fancy schools in the suburbs" wrote Jansen "I would take the risk of being an illegal immigrant and flee across the border in the opposite direction – into Zimbabwe. Yes they have a tyrant for a president, and sometimes they lack bread in the shops, but at least the schools work and the teachers teach."

Professor Jansen's argument stands popular South African wisdom on its head. There is a widespread assumption amongst South Africans that the country has been flooded by millions of desperate Zimbabweans who are placing an intolerable strain on public services.² In this view, the crisis in Zimbabwe destroyed the country's economy and health and educational systems, pushing teachers and pupils out of the country in droves. South African schools, in turn, are supposedly inundated with desperate Zimbabwean parents in search of an education for their children. Jansen's point is not that the Zimbabwean school system has been spared the economic meltdown in the country. Rather, he is highlighting the often shambolic state of government schools in South Africa.³ In these circumstances, why would Zimbabweans want to subject their children to a demonstrably inferior system? In fact, there is very little evidence at the primary and high school level that the search for education is a motivation for Zimbabwean migration to South Africa although there are indications of a recent increase in the migration of unaccompanied minors" from Zimbabwe to South Africa.⁴ Most adult migrants tend to leave their children at home in Zimbabwe with relatives when they come to South Africa. At the same time, the volume of migration from Zimbabwe to South Africa has certainly increased significantly in recent years and some migrants do bring their children with them when they come to work in South Africa.⁵ Others have children born to them in South Africa.

This report is based on research in six communities in Cape Town and Johannesburg in September 2010 and examines the experiences of Zimbabwean migrant parents, children and students who seek to gain admission to public schools and tertiary institutions in South Africa. The report first examines the constitutional and legal rights of foreign migrants to an education in South Africa. The next section reviews

the findings of previous studies that suggest that migrant children and students face significant difficulties and prejudice in South Africa. The ensuing sections of the report present and discuss our research findings on the current experiences of Zimbabwean migrants with the South African educational system. Finally, the report makes recommendations on how the situation can be improved.

THE RIGHT TO THE CLASSROOM

Because there is so much legislative and practical confusion in South Africa about which children have a right to be in the classroom, it is important to return to first principles.⁶ South Africa has ratified both the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.⁷ Under Section 28 of the UN Convention, states recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they are to:

- make primary education compulsory and available free to all;
- encourage the development of different forms of secondary education, including general and vocational education, making them available and accessible to every child, and taking appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- make higher education accessible to all on the basis of capacity by every appropriate means; and
- take measures to encourage regular attendance at schools and the reduction of drop-out rates (Article 28).

Lest it be assumed that these rights only apply to citizens, the Convention is very clear that the right to education applies to all children in a country, regardless of their or their parents' or guardians' nationality or legal status. Thus Article 2(1) of the Convention commits governments to respect and ensure the rights in the Convention to each child within their jurisdiction "without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status." Article 21(1) also commits governments to making special provision to ensure that children who are refugees or seeking refugee status receive appropriate protection and humanitarian assistance in the enjoyment of applicable Convention rights, including the right to education.

The African Charter on the Rights of the Child (ratified by South Africa in 2000) extends the right to education in several ways.⁸ Article

11 of the Charter notes that every child has the right to an education through::

- the promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential;
- fostering respect for human rights and fundamental freedoms;
- the preservation and strengthening of positive African morals, traditional values and cultures;
- the preparation of the child for responsible life in a free society, in the spirit of understanding tolerance, dialogue, mutual respect and friendship among all peoples ethnic, tribal and religious groups.

States are to achieve the full realization of the right to education through free and compulsory basic education; encouraging the development of secondary education in its different forms and progressively making it free and accessible to all; making higher education accessible to all on the basis of capacity and ability; taking measures to encourage regular attendance at schools and the reduction of drop-out rates; and taking special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community. As in the UN Convention, these rights are for all children in a country. Article 3 on "Non-Discrimination" notes that "every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in (the) Charter irrespective of the child's or his/her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status."

Domestically, the Bill of Rights in the South African Constitution is consistent with both the UN Convention and the African Charter (without the constraint of progressive realisation).⁹ Section 29(1)(a), for example, establishes the right to basic education (for all children and adults) "as an immediate right unqualified by any limitation related to progressive realisation."¹⁰ Government has an obligation to take active steps to ensure that every child has access to educational facilities and enjoys the right to education. It also means that government (and its agencies such as schools) should not impede access to education. The Bill of Rights binds all three tiers of government (national, provincial and municipal) to give effect to this right. Government can be held accountable through the courts if it fails to meet its education obligations to all children in the country.¹¹

Domestic educational legislation is generally consistent with the Constitutional guarantee that the right to education is for all children. The National Education Policy Act of 1996, for example, aims for "the advancement and protection of the fundamental rights of every person guaranteed in terms of Chapter 2 of the Constitution, and in terms of

international conventions ratified by Parliament, and in particular the right of every person to be protected against unfair discrimination within or by an education department or education institution on any ground whatsoever" (Section 4(1)(i)).¹² Section 5(1) of the South African Schools Act (SASA) 84 of 1996 declares that, "a public school must admit learners and serve their educational requirements without unfairly discriminating in any way."¹³ Paragraph 19 of the Admission Policy for Ordinary Public Schools (Notice 2432 of 1998) states that the South African Schools Act applies equally to learners who are not citizens of South Africa or whose parents hold temporary or permanent residence permits.¹⁴ Additional rights of access to education for refugees in South Africa are provided for in the Refugees Act of 1998. Article 27(g) of the Act states that "refugees as well as refugee children are entitled to the same basic health services and basic primary education which the inhabitants of the republic receive from time to time."¹⁵

On the other hand, Section 2(1)(c) of the Immigration Act notes that one of the functions of the Department of Home Affairs is to "detect and deport illegal foreigners" and in achieving this objective it should "inspect institutions of learning to ensure that illegal foreigners are not enrolled therein" (Section (2)(b)).¹⁶ Section 39(1) of the Act notes that "no learning institution shall knowingly provide training or instruction to (a) an illegal foreigner; (b) a foreigner whose status does not authorise him or her to receive such training." Furthermore, Section 39(2) states that "if an illegal foreigner is found on any premises where instruction or training is provided, it shall be presumed that such foreigner was receiving instruction or training from or allowed to receive instruction or training by, the person who has control over such premises unless *prima facie* evidence to the contrary is adduced." In other words, the Act makes schools responsible for ensuring that they do not admit pupils whose legal status in South Africa is unknown or ambiguous. Furthermore, if they do admit such students they can be charged with aiding and abetting an 'illegal foreigner' under Section 42(1).

There is thus a fundamental contradiction between the Convention, Charter and Constitutional right to education for all children in the country and the Immigration Act's unconstitutional prohibition on training or instruction to certain categories of child.¹⁷ At present, school principals and boards operate with conflicting mandates. Further confusing the issue, the Admission Policy for Ordinary Public Schools notes that a parent must (a) complete an application form for admission, (b) present the child's official birth certificate to the principal or be admitted conditionally until a copy of the birth certificate is obtained from the Department of Home Affairs within three months of conditional admission; and (c) show proof that the child has been immunised against

various communicable diseases. It is clear that these conditions apply to South African children for two reasons: first, it would be nonsensical to require children born outside the country to produce a South African birth certificate; and second, the regulations contain a separate clause for admission of non-citizens. However, as this report shows, non-South African parents are required to produce birth certificates as well.

The Admission Policy for Ordinary Public Schools also contains three clauses on the admission of non-citizens which note that “this policy applies equally to learners who are not citizens of the Republic of South Africa and whose parents are in possession of a permit for temporary or permanent residence issued by the Department of Home Affairs.” Does this mean that non-citizens have to produce birth certificates from their countries of birth as well? The Regulations do not say. However, they are very clear about one category of child: “Persons classified as illegal aliens must, when they apply for admission for their children or for themselves, show evidence that they have applied to the Department of Home Affairs to legalise their stay in the country in terms of the Aliens Control Act, 1991 (No. 96 of 1991).” The implication seems to be that the children of “illegal aliens” cannot be admitted to schools unless they show evidence that they have taken steps to regularise their status. However, this should be a moot point for two reasons: first, the Aliens Control Act is no longer in force and, second, according to the Bill of Rights, all children are entitled to an education and to bar them from schools on the basis of the legal status of their parents would be illegal and unconstitutional. As Polzer notes, “while school principals are supposed to uphold all children’s rights to education and ensure that all children in a community are in school, they are being asked to enforce the birth certificate or study permit requirement and exclude children on that basis.”¹⁸

Given recurrent reports that foreign children are often denied admission to South African schools, human rights groups focused on ensuring that their rights are protected in the omnibus Children’s Bill first tabled in 2002. Concerns about the lack of protection for migrant children ignited during public and parliamentary debates on the Children’s Bill (leading up to the eventual passage of the Children’s Act No 35 of 2005 and the Children’s Amendment Act 41 of 2007, which came fully into force on 1 April 2010).¹⁹ In 2004, the Children’s Bill Working Group (an alliance of 24 major non-governmental organizations including Lawyers for Human Rights, the Southern African Catholic Bishops’ Conference and the South African National Council for Child Welfare) submitted that the Bill under consideration was a “pale shadow” of the 2002 original and cut children’s rights to the bone: “critical issues which have been sacrificed in this process include the rights of child refugees and undocumented foreign children.”²⁰ Educational rights and the right of children

to appropriate services were also “gone.” In short, concluded the Group, the Bill had “lost its soul.”

Human rights lawyers were very sceptical of government’s motives in removing the references to foreign children that were present in earlier drafts of the legislation. The Refugee Rights Project at the University of Cape Town, for example, argued that the Immigration Act and the Refugees Act did not adequately protect the rights of children, and that the Children’s Act should explicitly address the silences in existing legislation on the treatment of foreign children.²¹ In a subsequent submission to the Parliamentary Portfolio Committee on Social Development, the Refugee Rights project added that “the gap that exists in terms of these pieces of legislation (the Refugees and Immigration Acts) is a combined, holistic one. The Acts are vague as they do not come together to clearly describe and put into place specific protection measures with respect to refugee and unaccompanied foreign children, before and after their detection and status determination.”²²

Defending the decision to drop any reference to “foreign children” in the Act, the Minister of Social Development noted that there was no need to specifically identify migrant children because the Act applied equally to all children in the country.²³ In discussions between Lawyers for Human Rights and the Department of Social Development, the Department noted that the removal of any explicit mention of foreign children from the Bill should be regarded as a positive development since it reaffirmed the Department’s commitment to the inclusion of all children irrespective of status, nationality, or whether they are accompanied or not, and to provide services to all children under 18 within the borders of the country.²⁴ According to LHR, however, “as much as the current bill is based on the premise that a “child is a child” regardless of status or nationality, and an implicit regard for the principle of non-discrimination, this principle is not explicitly stated in the Bill. The absence of an explicit clause that affirms the non-discriminatory application of the provisions in the Bill to all children leaves the door open for restrictive and exclusionary interpretations.”²⁵ But if “a child is a child”, as the Department maintains, then there should be no barriers to migrant children accessing the educational system in South Africa. As this report shows with regard to Zimbabwean children, this is very far from being the case.

BARRIERS TO ADMISSION

Researchers and NGOs have already pointed to some of the problems that migrant children and their parents face in accessing government schools in South Africa.²⁶ These include demands by school administrators and principals for study permits and birth certificates, language admission tests, claims that schools are ‘full’, being relegated to the bottom of enrolment lists, financial hardship, geographical inaccessibility and unwarranted fee demands.²⁷ The 2007 South African Community Survey found that of the 53,524 children aged 7-15 who were born outside the country, 6,438 (or 12%) were not in school.²⁸ The equivalent figure for the 8.5 million South African-born children was only 4.5%. Another recent survey showed that school attendance rates vary considerably with the migration status of the parents and child.²⁹ Amongst the school-going age children of permanent residents, the non-attendance rate is 12%. Amongst refugees it is 21% and amongst asylum seekers 23%. Finally, 43% of the children of irregular migrants are not in school. Such a wide variation can only be explained by the existence of “gatekeeping” at the level of individual schools. The intensity of gatekeeping by schools seems to vary from place to place, possibly even from school to school. For example, 13% of migrant children in Pretoria do not attend school, compared to 24% in Gauteng, 28% in Durban, 31% in Port Elizabeth and 33% in Cape Town.³⁰

Given the extra guarantees of the Refugees Act, child refugees should have no difficulty at all in gaining access to schools. But parents who have come to South Africa to seek asylum are frustrated by South Africa’s overburdened and ineffectual refugee system. As Landau points out, the refugee determination process can take months if not years, leaving asylum seekers in “a state of limbo during which they may stay in the country, but can access few social services and receive almost no official or private assistance in the form of direct aid or help in finding employment.”³¹ However, the proportion of asylum seekers who are granted refugee status is very small. In 2009, for example, there were 220,028 new applications for refugee status in South Africa. In that same year, 45,538 applications were rejected and only 4,531 were accepted. Of these 75% were from three countries (the DRC, Ethiopia and Somalia) (Table 1). In January 2011, the UNHCR estimated that refugee status had been granted to only around 53,000 applicants in the whole post-apartheid period.³² The number of registered asylum seekers in the country at that time was around 420,000. With regard to Zimbabwean refugee claimants, the Department of Home Affairs, and the government more generally, take the position that Zimbabwe is not a refugee-generating country.³³ While

nearly 150,000 Zimbabweans applied for refugee status in 2009 (which would certainly qualify as a 'mass exodus' under the Refugees Act), only 200 were granted refugee status while 15,370 were refused.

Table 1: Refugee Applications and Decisions, 2009			
	Applications	Accepted	Refused
Algeria	133	0	50
Angola	335	7	132
Bangladesh	4923	31	3310
Burundi	1208	133	367
Cameroon	667	9	429
China	3327	0	1634
Congo	3223	613	1391
DRC	6226	779	1706
Eritrea	219	202	71
Ethiopia	10715	1307	3130
Ghana	942	0	648
India	3632	0	1045
Kenya	624	0	276
Lesotho	258	0	54
Malawi	15697	0	7749
Mozambique	2559	0	882
Niger	1445	0	1071
Nigeria	3023	0	2046
Pakistan	3196	0	1770
Rwanda	275	17	68
Senegal	204	0	74
Somalia	3580	1213	638
Uganda	1425	20	759
Tanzania	1739	0	602
Zambia	1000	0	266
Zimbabwe	149453	200	15370
Totals	220028	4531	45538
<i>Source: UNHCR</i>			

A refugee permit should guarantee automatic access to a school. In practice, the permits look very different from South African identity documents and school administrators are often unfamiliar with them. Most South Africans also believe that the majority of refugee claims in South Africa are bogus.³⁴ In such circumstances, refugee permits are "not enabling documents and despite the fact that various rights are attached to such a documents, refugees struggle to access these rights. The South

African government has done very little to educate South Africans about refugee documents and as a result refugees are severely prejudiced.”³⁵

Xenophobic attitudes are very strong in South African communities and public institutions and many South Africans have a particularly negative view of foreign Africans, especially Zimbabweans.³⁶ Are these views and stereotypes internalised and reproduced by South African children in the classroom and playground? Earlier investigations of discrimination in the schools tended to focus on the persistence of racism but had little to say about the associated problem of xenophobia.³⁷ More recently, there have been a few case studies of the experiences of foreign children in South African schools. One study of five schools in Johannesburg’s inner-city, for example, found that migrant children were regularly subject to verbal abuse and name-calling from fellow pupils (including derogatory epithets such as *amakwerekwere*, *ingogongo*, *kwang* and ‘crocodile drivers’).³⁸ In another study of the inner-city by Wits University and Khanya College, refugee children talked about “taunts by teachers in the classroom and by learners in the playground ... Some learners make insinuations about refugees not washing. Others pester them by asking what they are doing in South Africa and when they are going back to their countries of origin, such as ‘you Congo, what have you come here to do?’ Some teachers ignore them in classrooms or when they notice them it is only to tease.”³⁹ Another micro-study in Athlone, Cape Town, reported similar findings among a group of younger refugee children.⁴⁰ More recently, a study of 150 high school students aged 16 to 21 in three Cape Town schools found that several common myths about migrants were “frequently reiterated” in interviews and focus groups.⁴¹

STUDY METHODOLOGY

The fieldwork for this study of the contemporary Zimbabwean experience with the South African educational system was conducted in Cape Town and Johannesburg in August and September 2010. Although Zimbabwean migrants are scattered around the country, the majority live in these two cities. Within each city, three different types of neighbourhood were selected. In Cape Town, the three areas were Observatory (a middle-income suburb), Du Noon (an informal settlement) and Masimphumelele (a township). In Johannesburg, the survey was carried out in Johannesburg Central (the inner city), Alexandra (a township) and Orange Farm (an informal settlement).

The project adopted a “snowball” sampling strategy to identify respondents. This involved the use of respondents to identify other respondents through their own networks. The process began by identify-

ing migrants as initial sampling points. Considerable effort was made to ensure that the initial sampling points were of varied backgrounds in terms of age, occupation, gender and legal status. Given the “mixed” nature of Zimbabwean migration to South Africa, the aim was to identify and interview as heterogeneous a sample as possible. The survey used two major data collection methods: in-depth interviews and focus group discussions. One hundred in-depth interviews were carried out in the two cities: 50 in Cape Town and 50 in Johannesburg. These interviews collected detailed information on access to health and educational services, the challenges migrants face and other issues related to these services. In order to complement data gathered through interviews, a total of 10 focus group discussions were conducted, 5 in each city. In Cape Town, the focus group discussions were held in the following areas: 1 in Observatory and 2 each in Du Noon and Masimphumelele. In Johannesburg, 1 focus group discussion was undertaken in Alexandra while 2 each were conducted in Johannesburg Central and Orange Farm. Each focus group discussion had approximately 10 participants. Besides collecting additional information and opinions, the focus group discussions gave respondents the opportunity to talk not only about their own experiences, but those of other migrants as well. All of the field researchers were Zimbabwean and spoke the major Zimbabwean languages (Shona and Ndebele). The findings of the research on the barriers to accessing public health facilities in South Africa are discussed in a separate paper.⁴²

The majority of the migrants indicated that they were aware of where and how to access educational services in South Africa. They knew of the public-private divide but indicated a preference for government schools because they were cheap and affordable. Few migrants knew that they had any rights to education under the South African Constitution. The majority believe that because they are foreigners, they have privileges rather than rights and these can be taken away by the South African government at will. The idea that they would have rights to education in a foreign country seemed inconceivable to most migrants, except those with some tertiary education.

ACCESSING THE RIGHT TO EDUCATION

The National Department of Education stipulates that in order to register a child at a government school, parents are required to provide a birth certificate and an immunization card. Lawyers for Human Rights and CoRMSA have found that schools generally turn children away if their parents cannot produce these documents.⁴³ This was confirmed by the Zimbabwean migrants

interviewed for this study. All of the migrants indicated that is very difficult to enrol their children in South African schools without these documents. Passports or asylum and refugee papers are not generally accepted as alternatives. One woman described how she failed to secure a place in Grade One for her child because she did not have the child's Zimbabwean birth certificate:

I tried several schools, but the issue was the same...they needed a birth certificate. Since I had not managed to get one for my daughter when I was still in Zimbabwe, I could not do anything. I cannot afford to go back to Zimbabwe to try and secure one....so my child is at home. I will try again at the end of the year and maybe I will succeed...I just hope I do because my child is growing bigger for grade one.⁴⁴

Most school authorities do not even give parents a chance to enrol their children while they try to secure the required documentation. The choice is documentation upfront or no registration at all. Most Zimbabwean nationals left their country under crisis conditions that did not give them time to bring all their documents or enough time to acquire them. It is therefore unreasonable to expect them to produce what they do not have or have little chance of acquiring. Demanding proof of residence or a South African next of kin as a condition for registration is equally pointless as few Zimbabwean nationals possess such documents or have locals who are willing to act as their kin.

Without money to return home to Zimbabwe to secure a birth certificate for their children, many migrants end up keeping them at home, depriving them of a much-needed education in their early years. In fact, as noted above, it is not at all clear from the legislation and regulations, that non-South African parents are required to produce home country birth certificates at all. More generally, it is completely unreasonable to expect an asylum seeker or refugee to return to the country they fled from to obtain a birth certificate before their children can be enrolled in a South African school. Obtaining a birth certificate for a child born in South Africa can also very difficult. Apart from the general inefficiency of the Home Affairs bureaucracy, parents need to obtain birth records from the institution where the child was born. Migrants reported that some local hospitals refuse to provide them with the records on the grounds that they were 'illegal migrants' when they gave birth and are therefore not entitled to documents. This kind of obstructionism is another clear example of the medical xenophobia that permeates public health institutions.⁴⁵

Many migrants are forced to turn to private educational institutions that do not make a fuss about documentation. Even in private schools

and other educational institutions, however, there are still challenges. Undocumented migrants and those with asylum papers are usually asked to provide a next of kin with South African citizenship to act as guarantors in the event the migrant defaults on fees. Migrants who are unable to find South African nationals to act as their next of kin face challenges in securing places in some private institutions.

FINANCIAL BARRIERS

The Department of Education encourages all students to be enrolled in the same area in which they are domiciled. However, migrant children rarely benefit from this policy. This is because they are usually the last to be offered places as local students are given priority. They may therefore end up getting a place at a school further away from where they live. In Cape Town, for example, one migrant parent living in Observatory said that his two children were going to school in Wynberg, some 10 kilometres away, because they could not get into a school in Observatory or the nearby residential areas of Mowbray or Salt River. The students therefore have to commute to school:

In addition to the fees, the cost of transport is high. I have to pay approximately R30 a day for my kids and its really straining my finances, but there is nothing that I can do. My salary cannot cope...so I have to walk into town to work so that I can save a little. Things would have been different if I had secured them places close to home where they would walk to school.⁴⁶

Section 5 (1) (a) of the South African Schools Act of 1996 states that “no learner may be refused admission to a public school on the grounds that his or her parent is unable to pay or has not paid the school fees determined by the governing body.” Schools are required to exempt learners from households with incomes that fall below a prescribed means test.⁴⁷ Certain categories of children (or their caregivers) are automatically eligible for full exemptions. The loss of revenue and lack of compensation has made schools extremely reluctant to implement the exemption policy, and even to accept learners who may be unable to pay fees.⁴⁸ A High Court judgment in 2007 clarified that the exemption policy must be implemented by schools and enforced by provincial education departments. In 2007, a new national funding policy was implemented in which the poorest 40% of schools were granted no-fee status.⁴⁹

The cost of public education to parents or guardians in South Africa is therefore not astronomical. In addition, fee exemptions should now be

granted more readily. In other words, school fees are not generally an insurmountable barrier to access. However, the parents of migrant children “have great difficulty” in accessing fee exemption forms:

We have seen cases of unaccompanied foreign children who were under severe pressure to pay school fees despite having no means of financial or other support. We have seen cases where the schools have handed over cases such as these to debt collectors who have proceeded to aggressively pursue unaccompanied foreign children with the unfortunate result of causing the child to leave school.⁵⁰

Unable to get fee relief and for other reasons (such as the documentation issue and preferential access for local children), many migrants find it very difficult to get their children into these schools.

Migrant parents or guardians respond in various ways when their children are shut out of a government schools. One option is to “school shop” which, if successful, often means added commuting costs because the school is further away from where they live. Another option is to enrol the children in private schools where no questions are asked about documentation. A significant number of migrant children from better-off families are in private schools but the fees are high and often far more than the average migrant family can afford. Poorer migrants have absolutely no chance of accessing the elitist private system. Many Zimbabwean migrants in South Africa are employed in low-paying jobs in the hospitality and construction sectors where they work as waiters, cleaners, bartenders, security guards and general hands. With these kinds of jobs, most find it very difficult to consistently pay for their children’s educational costs. As one respondent recounted:

I enrolled my child at a private school after failing to secure a place at government schools in my area. She is in Grade 3 and I pay R1 200 a month. This is very expensive for me, but I have no choice. The school is very strict and if I do not pay in time, my child is excluded from classes by being made to sit in the staff-room so that she does not get to learn. I am barely managing as I earn very little from my job as a waiter....but I have no choice. I just have to persevere.⁵¹

Others respond by keeping their children at home, hoping that their work situation will eventually improve and they will be able to pay for their children’s education.

If their financial situation does not improve, some migrants eventually resort to sending their children back to Zimbabwe so that they can be educated there:

My sister brought her two children to this country at the beginning of 2009. She could not find them a place in a government school so she ended up enrolling them at a private school. It was expensive...I think she was paying R800 per month for each child, one in grade 3 and the other in grade 5. She could only afford to pay for the first two terms and withdrew them until the end of the year. She had to send them back to Zimbabwe at the end of the year. But they have had to repeat their grades this year and now they are a grade behind their age group.⁵²

At private high schools, the fees can be as high as R35 000 per year. Some parents look for cheaper institutions. But if these are further away from their place of residence, migrants also face the added cost of transporting their children to and from the schools.

DISCRIMINATION AND XENOPHOBIA

The focus group discussions in both Cape Town and Johannesburg revealed that discrimination and hostility towards Zimbabwean children in school is pervasive:

It is difficult for our children in some of these schools. They are discriminated against by some teachers. My friend's child, who is in grade 9, was asked to move from a computer and make way for a South African student. When he tried to refuse, the teacher threatened him that this was not a Mugabe school and he had to move. But we pay the same fees....it is not his problem that there are few computers at the school...to be fair I think they just need to alternate the students or make them share, but not to deprive others. How will they learn?⁵³

In addition, migrant students are subjected to xenophobic taunts from students as well as teachers who do not like foreign students in their classes. One Zimbabwean parent interviewed in Observatory recounted how her Grade 7 child was continuously ridiculed by some of her classmates. They commented that her skin colour was too dark, her pronunciation of English too African, and that she ate too much because there is no food in Zimbabwe. Sometimes the comments were more threatening:

Our children are abused everyday by other students who call them 'makwerekwere' and pass on negative comments about them and where they come from. We usually ask our children to ignore these comments, but sometimes it just gets too much and really frightening. At one point my child was

told by her classmate that she would be stabbed by a knife if she did not return to her country. I had to spend time persuading her to go to school because she wanted to quit out of fear.⁵⁴

This kind of treatment makes the children of migrants feel alienated, inferior and unwanted. Some students, subjected to xenophobic insults and comments, become withdrawn and do not participate in class or take part in extra-mural activities.

Most parents or guardians would take verbal bullying and threats of violence to the school authorities. However, the focus group discussions revealed that this is no easy thing for Zimbabweans in South Africa. Parents are usually left frustrated as most school authorities do not take the threats seriously, even after the nation-wide xenophobic violence of May 2008. Some participants even suggested that school authorities do not act because the students' xenophobic attitudes mirror their own feelings towards foreigners. Migrant parents usually do not pluck up the courage to report the cases or confront the school authorities for fear that their child will be further victimized or their place at school jeopardized. As one parent in Orange Farm, Johannesburg, commented:

It is wasting time if you go to report the incidents to the school authorities. Some teachers do not even take it seriously...they just tell you that some students are naughty. Or that they will deal with the issue. But nothing happens really...instead your child is abused further. If you persist in going to the school, then your child is in trouble...teachers ignore or even taunt her.⁵⁵

Parents are certainly convinced, on the basis of experience, that nothing will be done to make things easier for their children and that the perpetrators will not be disciplined in any way. One parent observed that all they can do is hope and pray that their children are strong enough to withstand the ill-treatment and persist with their education until they graduate. In the words of another, they have no alternative but to leave their children 'in the hands of God.'

LANGUAGE PROBLEMS

In South Africa, schools are required to teach students using their mother language from Grade 1 to Grade 3. Thereafter, they can be taught in either English or Afrikaans until matriculation at the end of Grade 12. The main problem for the children of Zimbabwean migrants in primary schools is their inability to speak or understand local languages such as Zulu, Sotho, Xhosa, Pedi and Tswana. Most migrants

indicated that their children usually have a difficult time coping in the first few years of primary school as they have to learn a new language. One migrant parent, who came to South Africa three years ago and enrolled her daughter in second grade, recounted the problems that her child faced:

My daughter did not understand Zulu when she came... so she had difficulty communicating with the teachers and other students. For the first two terms, she was just going to school, but I do not think she learnt much. I would ask her when she came back what she had learnt, but she could not tell me a lot. Now she is in grade 3 and she is doing a bit better, but still she struggles.⁵⁶

Most migrant children enrolled in primary schools face the problem of having to learn in a language they do not understand. Learning the new language takes time and the children usually lag behind in their school work. From Grade 4 onwards, schools are supposed to use either English or Afrikaans. However, the Zimbabwean migrants said that some schools continue teaching in their vernacular language well into the secondary level. While this may be beneficial to local students, as they continue to be taught in a language that they understand well, it disadvantages migrant students who join these schools in later years and are unable to adapt to the language.

OBSTACLES IN THE TERTIARY SECTOR

Article 3(g) of the SADC Protocol on Education and Training commits governments “to work towards the relaxation and eventual elimination of immigration formalities in order to facilitate freer movement of students and staff within the Region for the specific purposes of study, teaching, research and any other pursuits relating to education and training.” There is little evidence that South African institutions of higher learning, or the Department of Home Affairs, are doing much to achieve this commitment. With the exception of cost, migrants from other SADC countries find it no easier to access tertiary education in South Africa than those from further afield.

Colleges and universities require certain documentation before a migrant student can be registered. A study permit issued by the Department of Home Affairs is the basic requirement for “international students.” According to the Immigration Act, study permits can only be applied for in the student’s home country. In practice, this unreasonable requirement is often waived for migrants already in the country

who wish to start studying in South Africa. Applications can be made at Department of Home Affairs' offices within the country. Migrant students with asylum papers are also required to apply for study permits in order to be registered in local colleges and universities. Many in this category have passports, but entered the country on visitors' permits or clandestinely. However, the Department of Home Affairs refuses to accept their applications for study permits on the basis that they are in the country illegally. They are told that they should return to Zimbabwe and make an application at the South African Embassy there. One respondent in Cape Town described the difficulty:

Last year I applied for and was offered places at two universities here to study commerce and accounting. My problem now is how to acquire a study permit. I have been to the Home Affairs Department three times and have, on all occasions, been told that they cannot accept my application since my passport does not have an entry stamp...they want me to go back to Zimbabwe to apply from there. But I cannot afford to go back...I want to save the little money I have for tuition. So now I am stuck.⁵⁷

Many Zimbabweans are in a similar situation, wanting to further their education in South Africa but unable to do so because they do not have study permits. Even migrants who have entered the country legally and have all the documentation, find it difficult to get the permits. This is because they are unable to meet some of the requirements for study permits. These conditions include a requirement to show they have sufficient money to pay for tuition, accommodation and sustenance and the acquisition of prepaid health insurance.

Most prospective migrant students in the survey said that the conditions are too stringent and that they are unlikely to satisfy them. Because most of them are involved in part-time work it is impossible to raise enough money to pay tuition and health insurance for the whole year in one lump sum. Rather they prefer to pay fees in instalments throughout the year – an arrangement which most institutions in the country The Home Affairs Department, however, insists on prospective students providing proof of enough income and a health insurance valid for a year before it will issue a study permit.

The Refugees Act is clear that a refugee permit exempts a student from having to obtain a study permit. However, the organisation Unity for Tertiary Refugee Students (UTRS) reports that universities "take the most central and unexpected role as culprits in excluding refugee students."⁵⁸ UTRS continues:

From the responses and attitudes of university staff, when a

refugee applies for admission to an institution, the first reaction is very often that of rejection, not based on academic weakness or irregularities but rather on the refugee's identity, his or her status as a person in exile. What often occurs is that the refugee applicant is told that he or she is not allowed to study, or more succinctly, 'You can't study here, because you are not allowed to.'

The position of those with asylum seeker permits is less clear. Some institutions accept them in lieu of a study permit. Other do not on the grounds that that they are temporary and can therefore be revoked anytime. A female respondent who lives in Masimpumelele Township in Cape Town, explained how she could have been in a nurse training school had the school accepted her asylum permit:

I applied and got a place at a local nurse training institution. I paid my deposit through the bank, but when I went to register they told me that they could not register me with the asylum paper. I tried everything, but they refused and so I ended up asking for my money back, which took me almost 9 months to be refunded. Even then, I only got a part of the deposit as they said that the other part was not refundable. I could have been half way through my course right now.⁵⁹

The prospect of furthering their education in South Africa is limited as long as institutions are ignorant of their legal responsibilities or make excessive demands for particular kinds of documentation or ignore the SADC Protocol. Schools and colleges also seem extremely reluctant to accept students who have asylum permits. Those that do will only provide temporary registration – valid for the duration of the asylum permit, which is usually three months. If the migrant fails to renew the asylum permit, registration at the educational institution automatically lapses.

At the tertiary level, migrants also face prohibitive costs especially at universities. Under the terms of the SADC Protocol, students from Zimbabwe are charged the same fees as their local counterparts. However, Zimbabwean students enrolled at tertiary institutions generally have to fund their own studies. South African students have access to bursaries but Zimbabwean students do not, as citizenship is a pre-condition for bursary support:

It's difficult to get a scholarship if you are a foreigner. At our university we get a lot of information on bursaries and how to apply for them. But most of them are meant for South African students....there is very little for foreigners. The competition for refugee bursaries is too intense as there are only a few that are offered...last year I was in the top 5 % in

my class, but I failed to get a bursary...that's how tough it is. Now I owe the university close to R30 000 and I do not think that next year they will allow me to register.⁶⁰

Migrants who are accepted at local colleges and universities frequently fail to take up their offers as they are unable to raise the required fees. Those that find the money to register often terminate their studies before they finish their programmes due to mounting debt. Some interrupt their studies and find work in the hope that they can raise enough money to come back to school again.⁶¹

Another hurdle that Zimbabwean migrants face in accessing education in South Africa is the issue of the accreditation of their foreign qualifications. South African law requires that students must have their qualifications evaluated by the South African Qualifications Evaluation Authority (SAQA). In order to get a certificate of evaluation, documents have to be sent to Pretoria, the only centre that handles such evaluations in the country. This is a costly process for migrants:

I earn very little money, but I hope to go to school so that in future my life would improve. My major problem is that of the SAQA certificate which I do not have. It is expensive for me...I can not afford the R500 that I may need to have the whole process done. I have applied to two government institutions, but they keep turning me down, asking me to have my qualifications done first. Without that certificate I know I will not get the place.⁶²

The respondents also indicated that the evaluation takes an inordinately long time, sometimes as long as four months. While they wait for the process to be completed, they lose opportunities to apply for and be accepted into educational institutions.

CONCLUSIONS AND RECOMMENDATIONS

This report has identified some of the obstacles which Zimbabweans face in accessing public educational institutions in South Africa. There is clearly considerable “gatekeeping” at schools which precludes some children from getting an education. Zimbabwean parents are forced to adopt other strategies to get their children into school. These include turning to the private system, putting their children in non-neighbourhood schools or sending them back to Zimbabwe, all of which mean significant additional financial hardship. The result, in an alarming proportion of cases, is that children do not go to school at all. Given that most Zimbabweans are in South Africa to make a living (and contribute significantly to the South Africa economy),

it would be an appropriate neighbourly gesture for South Africa to agree to educate Zimbabwean children in the country until such time as conditions in that country permit their parents or guardians to return home. However, appeals to the “goodwill” of South Africans are unlikely to be successful given the pervasiveness of anti-foreign (and anti-Zimbabwean) sentiment in the country.

As a result, the criteria for all decisions about who should be educated in South Africa should be referred to the international conventions which the South African government has ratified and its own Bill of Rights. These instruments all agree that education cannot be denied to any child in South Africa on the basis of their or their parents or guardians’ nationality. All children in South Africa should have the same right of access to education as South African children. In discussions around the Children’s Act, the Department of Social Development argued that there was no need to build in special protection for migrant children because the Act applies to all children, regardless of origin or nationality. The research for this paper calls this argument into question and also demonstrates that government and schools are, in practice, regularly in violation of the UN Convention on the Rights of the Child, the African Charter on the Rights of the Child and the Bill of Rights.

The national policy and legislative framework around school admission not only appears to violate the Convention, Charter and Bill of Rights at points but is also contradictory. The Immigration Act, in particular, unfairly places the burden of immigration enforcement on schools and also makes schools unsafe spaces for children. It is not unreasonable for government schools to ask for identity documentation (but not necessarily birth certificates) and proof of immunization. But to use non-compliance or a lack of documentation to single out non-South African students, relegating them to the bottom of enrolment lists or denying them access altogether is unacceptable. The Department of Education’s legislation from the 1990s and the Immigration Act need to be re-examined for their constitutionality. It is troubling that the regulations for school admission on the Department of Education website make reference to a piece of legislation, the Aliens Control Act, that was repealed as long ago as 2002.

Educational administrators, principals and governing bodies also need clear and unambiguous direction from government that the best interests of the child should be the operative principle in all decisions about admission and that they should not discriminate against foreign children. At present, there is far too much inconsistency and discretion and, as a result, discrimination. Others are quick to use unconstitutional regulations and directives to deny Zimbabwean and other children access to their schools. As this report shows, the problems do not diminish for

students seeking to access training in the tertiary education sector in South Africa.

This report confirms that Zimbabwean children are often singled out in the classroom by both teachers and fellow students for being foreign. This verbal bullying is fundamentally antithetical to the positive educational experience promised all children in the country. The fact that there are students in South African schools who are bent on taunting and verbally abusing foreign students is an indictment, not of the children themselves, but of their parents and South African society in general. Teachers need to educate South African pupils that migrant students are just like them and deserve to be treated with respect. As for teachers who take part in xenophobia against students that they teach, it is worth asking whether such teachers even have a place in South African schools. Many migrant children come from a tortured past and what they need is to be welcomed rather than abused; to be understood rather than harassed; and to be made part of the school rather than to be continuously reminded that they do not belong.

The South African government is obliged by its own legislation, as well as the values enshrined in the Bill of Rights, to counter xenophobia. The Preamble to the 2002 Immigration Act notes that the legislation aims to put in place a system of immigration control in which, amongst other things, “xenophobia is prevented and countered both within Government and civil society.” Section 2(1)(e) of the Act states that the Department of Home Affairs will prevent and deter xenophobia within the Department, any sphere of government or organ of State and at community level. In order to achieve this, government will “educate communities and organs of civil society on the rights of foreigners, illegal foreigners and refugees, and conduct other activities to prevent xenophobia” (Section 2(2)(e)). Further, Section 3(1)(f) commits the Department of Home Affairs to “organise and participate in community fora or other community-based organisation to deter xenophobia” and educate the citizenry in migration issues.

Tackling xenophobia in the schools would be a substantial step towards producing the educated, tolerant and accepting South African citizenry envisaged by the Act and the Bill of Rights. A great deal can be learned from the example of schools like Claireville Primary in Durban. The school opened its doors to foreign students in 1997, when three pupils from the DRC began attending. Now one-third of the 768 pupils are from other African countries, with the South African pupils coming mainly from a nearby informal settlement. The two groups are extremely friendly and mix well. Principal Sam Bhairopersad recalls that “we were the first school in Durban to open our doors to students from other countries - other schools around here were scared. We felt that these are

children like all others and they also needed good education, and we could not deny them the right to education.”⁶³ Schools need to become refuges from xenophobia rather than sites for its perpetuation.

ENDNOTES

- 1 J. Jansen, “Zim Can Teach Us a Thing or Two: That Country’s Schools Work, Its Teachers Really Teach” *Sunday Times* 2 December 2010.
- 2 J. Crush et al, *The Perfect Storm: The Realities of Xenophobia in Contemporary South Africa*, SAMP Migration Policy Series No 50, Cape Town, 2008.
- 3 L. Chisholm, “The State of South Africa’s Schools” In J. Lutchman and R. Southall, eds., *State of the Nation: South Africa 2004-2005* (Pretoria: HSRC Press, 2005); F. Hunt, “Policy in Practice: Teacher-Student Conflict in South African Schools” In M. Dunne and F. Leach, eds., *Education, Conflict and Reconciliation* (Peter Lang Publishers, 2007); M. Lumadi, “Teachers’ Exodus in South African Schools: A Smoke With Burning Fire” *Issues in Education Research* 1 (2008); K. Milner and H. Khoza, “A Comparison of Teacher Stress and School Climate across Schools with Different Matric Success Rates” *South African Journal of Education* 28 (2008).
- 4 C. Fritsch, E. Johnson and A. Juska, “The Plight of Zimbabwean Unaccompanied Refugee Minors in South Africa: A Call for Comprehensive Legislative Action” *Denver Journal of International Law and Policy* 38 (2010): 623.
- 5 J. Crush and D. Tevera, eds., *Zimbabwe’s Exodus: Crisis, Migration, Survival* (Cape Town and Ottawa: SAMP and IDRC, 2010).
- 6 P. Christie, “The Complexity of Human Rights in Global Times: The Case of the Right to Education in South Africa” *International Journal of Educational Development* 30 (2010): 3-11.
- 7 See <http://www.un.org/documents/ga/res/44/a44r025.htm>
- 8 See http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/A.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf
- 9 See <http://www.info.gov.za/documents/constitution/1996/96cons2.htm>
- 10 L. Lake and S. Pendlebury, “Children’s Right to Basic Education” In S. Pendlebury, L. Lake and C. Smith, eds., *South African Child Gauge 2008/2009* (Cape Town: UCT Children’s Institute, 2009), p. 19.
- 11 Ibid.
- 12 <http://www.info.gov.za/acts/1996/a27-96.pdf>
- 13 <http://www.info.gov.za/acts/1996/a84-96.pdf>
- 14 <http://www.polity.org.za/polity/govdocs/notices/1998/not98-2432.html>
- 15 <http://www.home-affairs.gov.za/PDF/Acts/Refugees%20Act130.pdf>
- 16 <http://www.info.gov.za/view/DownloadFileAction?id=68047>
- 17 T. Polzer, “Education Access for Non-Citizens in Border Areas” Discussion

- Brief for National Department of Education, Forced Migration Studies Program, Wits University, Johannesburg, 2007.
- 18 Ibid.
 - 19 <http://www.info.gov.za/view/DownloadFileAction?id=67892>
 - 20 Children's Bill Working Group, Joint Submission on the Children's Bill to the Portfolio Committee on Social Development, Cape Town, July 2004 at http://www.ci.org.za/depts/ci/plr/pdf/subs/jul04/cbill_working_group.pdf
 - 21 N. Machingambi and S. Ralekwa, "Children's Bill: Foreign Children" Submission to National Council of Provinces, South African Parliament, 2005.
 - 22 Refugee Rights Project, UCT, Submission to the Portfolio Committee on Social Development on the Children's Amendment Bill [B19B-2006], Cape Town, 2007 at <http://www.ci.org.za/depts/ci/plr/pdf/subs/aug07/UCT%20Law%20Clinic%20Submission%20on%20B19B-2006.pdf>
 - 23 I. Palmay, For Better Implementation of Migrant Children's Rights in South Africa. Report for UNICEF, Forced Migration Studies Programme, Johannesburg, 2009, p. 11.
 - 24 Submission by Lawyers for Human Rights to Public Hearings on the Children's Amendment Bill, Gauteng, 25 October 2006 at <http://www.ci.org.za/depts/ci/plr/pdf/publichearings/gauteng/Submissions/LHRSubmissionOctober2006.pdf>
 - 25 Ibid.
 - 26 D. Timngum, "Assisting Urban Refugee Children in South Africa: Humanitarian Challenges to State and Non-state Actors" M.A. Thesis, University of Witwatersrand, Johannesburg 2001; .L. Stone and S. Winterstein, "A Right or a Privilege? Access to Basic Education for Refugee and Asylum-Seeker Children in South Africa" Report for National Consortium for Refugee Affairs, Johannesburg, 2003; F. Belvedere, *National Refugee Baseline Survey: Final Report*, Community Agency for Social Enquiry (CASE), Pretoria, 2003; S. Motha, "The Education Rights of Refugees, Asylum Seekers and Migrants in South Africa" Education Rights Project, Wits Education Policy Unit, Johannesburg, 2005.
 - 27 Consortium for Refugees and Migrants in South Africa (CoRMSA), "Protecting Refugees, Asylum Seekers and Immigrants in South Africa" Johannesburg, 2009.
 - 28 B. Fleisch, J. Shindler and H. Perry, "Children Out of School: Evidence from the Community Survey" In S. Pendlebury, L. Lake and C. Smith, eds., *South African Child Gauge 2008/2009* (Cape Town: UCT Children's Institute, 2009), p. 43.
 - 29 CoRMSA, "Protecting Refugees, Asylum Seekers and Immigrants in South Africa", pp. 96-7.
 - 30 CoRMSA, "Protecting Refugees, Asylum Seekers and Immigrants in South Africa"
 - 31 L. Landau, "Protection and Dignity in Johannesburg: Shortcomings of South

- Africa's Urban Refugee Policy" *Journal of Refugee Studies* 19(3) (2006): 308-27; T. Schreier, "A Critical Examination of South Africa's Application of the Expanded OAU Refugee Definition: Is Adequate Protection Being Offered Within the Meaning of the 1969 OAU Refugee Convention" LL.M. Thesis, University of Cape Town, 2008; D. Vigneswaran, "A Foot in the Door: Access to Asylum in South Africa" *Refuge* 25(2) (2008): 41-52; R. Amit, "Protection and Pragmatism: Addressing Administrative Failures in South Africa's Refugee Status Determination Decisions" Forced Migration Studies Programme, Wits University, 2010.
- 32 <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e485aa6>
- 33 T. Polzer, "Silence and Fragmentation: South African Responses to Zimbabwean Migration" In Crush and Tevera, *Zimbabwe's Exodus*, pp. 383.
- 34 Crush et al, *The Perfect Storm*, p.
- 35 F. Khan, "Local Integration: Lessons Learned and the Way Forward" Refugee Rights Project, University of Cape Town, Cape Town, 2007.
- 36 Crush et al, *The Perfect Storm*, p.
- 37 S. Vally and Y. Dalamba, "Racism, 'Racial Integration' and Desegregation in South African Public Secondary Schools" South African Human Rights Commission, Braamfontein, 1999; B. Mda and M. Mothata, *Critical Issues in South African Education After 1994* (Kenwyn: Juta, 2000); J. Jansen, "Dealing with Difference in South Africa: A Critical Review of Literature and Experiences on Racism, Prejudice and Xenophobia in South African Schools" Soul Buddyz Series No 2, Soul City, Johannesburg, 2001.
- 38 R. Osman, "The Phenomenon of Xenophobia as Experienced by Immigrant Learners in Inner City Schools of Johannesburg" M.Ed. Thesis, UNISA, 2009.
- 39 S. Motha and B. Ramadiro, "Education Rights of Migrants in the Inner City of Johannesburg, South Africa" Wits Education Policy Unit and Khanya College, Johannesburg, 2005, p. 19.
- 40 T. Livesey, "A Study on the Extent of Xenophobia Towards Refugee Children" M.Diaconiology Thesis, UNISA, 2006.
- 41 A. Hill, "Youth Attitudes to Foreigners in South Africa: The Impact of the Post-Apartheid Education System" MSc Thesis, Oxford University, 2010.
- 42 J. Crush and G. Tawodzera, "Medical Xenophobia and the Access of Zimbabwean Migrants to Health Services in South Africa" SAMP Migration Policy Series No 54, Cape Town, 2011.
- 43 Lawyers for Human Rights (LHR) and CoRMSA, Joint Submission to the Portfolio Committee on Basic Education on the Difficulties faced by Refugees, Asylum Seekers and Other Foreign Migrant Children in Accessing Education, Cape Town, February 2010.
- 44 Interview No 30, Du Noon, Cape Town, 25th August 2010
- 45 Crush and Tawodzera, "Access of Zimbabwean Migrants to Health Services in South Africa."
- 46 Interview No 11, Observatory, Cape Town, 23rd August 2010

- 47 K. Hall and S. Giese, "Addressing Quality through School Fees and School Funding" In S. Pendlebury, L. Lake and C. Smith, eds., *South African Child Gauge 2008/2009* (Cape Town: UCT Children's Institute, 2009), p. 36.
- 48 Ibid.
- 49 Ibid.
- 50 LHR and CoRMSA, "Joint Submission to the Portfolio Committee on Basic Education" p. 4.
- 51 Interview No 10, Observatory, Cape Town, 23rd August 2010
- 52 Participant in Focus Group Discussion, Alexandra, Johannesburg, 1st September 2010
- 53 Participant in Focus Group Discussion, Alexandra, Johannesburg, 1st September 2010
- 54 Interview No 85, Alexandra, Johannesburg, 1st September 2010
- 55 Focus Group Discussion, Orange Farm, Johannesburg, 2nd September 2010
- 56 Interview No 99, Orange Farm, Johannesburg, 3rd September 2010
- 57 Interview No 47, Masimphumelele, Cape Town, 29th August 2010
- 58 F. Bidandi and A. Wamundiya, "Evaluating Refugee Access to Institutions of Higher Learning in South Africa" Unity for Tertiray Refugee Students, University of Western Cape, nd.
- 59 Interview No 36, Masimphumelele, Cape Town, 27th August 2010
- 60 Interview No 6, Observatory, Cape Town, 23rd August 2010
- 61 Focus Group Discussion, Observatory, Cape Town, 4th September 2010
- 62 Interview No 50, Masimphumelele, Cape Town, 5th September 2010
- 63 "School a Refuge from Xenophobia" IRIN 24 November 2009.

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SOUTHERN AFRICAN MIGRATION PROGRAMME

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