

Exclusion and Discrimination: Zimbabwean Migrant Children and South African Schools

Jonathan Crush · Godfrey Tawodzera

Published online: 15 August 2013
© Springer Science+Business Media Dordrecht 2013

Abstract Post-2005 migration movements from Zimbabwe to South Africa have included a growing number of children. These children face considerable difficulties in accessing the South African educational system. School attendance rates are significantly lower amongst migrant than South African children. This paper is based on recent interviews with Zimbabwean parents and guardians in Cape Town and Johannesburg and shows the levels and types of discrimination they and their children face as well as their powerlessness to effect change. The exclusion of migrant children from education contravenes South Africa's international human rights obligations as well as its own Bill of Rights and Department of Education directives. The Department of Home Affairs, however, makes schools sites for the enforcement of the draconian provisions of the 2002 Immigration Act. School authorities therefore operate with conflicting mandates. The evidence suggests that most prefer to side with the Department of Home Affairs and make their schools unwelcoming spaces for Zimbabwean children.

Keywords Migration · Xenophobia · Education · South Africa · Zimbabwe

Introduction

The eminent South African educationalist and Vice-Chancellor of the University of the Free State, Professor Jonathan Jansen, surprised many South Africans when he wrote in the national South African newspaper, *The Sunday Times*, that the education system in Zimbabwe was superior to that in South Africa with dedicated, professional

J. Crush (✉)
Balsillie School of International Affairs, Waterloo, ON, Canada
e-mail: crushj@queensu.ca

J. Crush
University of Cape Town, Cape Town, South Africa

G. Tawodzera
African Centre for Cities, University of Cape Town, Cape Town, South Africa
e-mail: godfrey.tawodzera@uct.ac.za

and hardworking teachers who placed children's interests above their own (Jansen 2010). "If I were a desperate (South African) township parent who could not get my child into the fancy schools in the suburbs" continued 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."

Jansen was deliberately standing 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 place an intolerable strain on public services (Crush et al. 2008). In this view, the crisis in Zimbabwe destroyed the country's economy, health and educational system, pushing teachers and pupils out of the country in droves. South African schools, in turn, have been supposedly inundated with desperate Zimbabwean parents in search of an education for their children. Jansen's point was not that the Zimbabwean school system has been spared the economic meltdown in the country. There is enough evidence that it has led to a decline in quality, widespread disruption, teacher strikes and out-migration, and severe shortages of educational materials (Chireshe and Shumba 2011; Matereke 2011; Chagonda 2012). Rather, he was highlighting the shambolic state of government schools in South Africa (Chisholm 2005; Hunt 2007; Lumadi 2008; Milner and Khoza 2008). In these circumstances, why would Zimbabweans want to subject their children to a demonstrably inferior educational system? And what access should they enjoy if they have left Zimbabwe as refugees or economic migrants and wish their children to remain in school?

Since the end of apartheid, South Africa has become a major destination for migrants and refugees from the rest of the continent (Crush and McDonald 2002; Segatti and Landau 2011). South Africans have responded to this influx of fellow Africans with considerable animosity and intolerance (Steenkamp 2008; Neocosmos 2010). Most scholars agree that this hostility is evidence of an "intense or irrational dislike or fear of people from other countries" (the standard OED definition of xenophobia). Although there is considerable debate on the root causes of xenophobia in post-apartheid South Africa, few deny that it exists (Nyamnjoh 2006; Everatt 2011). National surveys have shown that xenophobic attitudes are not confined to any one socio-economic, racial, demographic or political grouping although their main targets are Africans from other countries (Crush et al. 2008). Studies have demonstrated that xenophobic attitudes are not confined to the general public but are also held by employees of the state and that this affects the way they treat and interact with migrants (McNight 2008; Amit 2011; Sutton and Vigneswaran 2011). A complementary stream of research has examined the experience of and responses to xenophobia by migrants themselves (Barbali 2009; Adjai 2010; Bloch 2010; Dodson 2010; Jinnah 2010; Mosselson 2010; Vidal 2010; Abdi 2011; Gebre et al. 2011; Rugunanan and Smit 2011). Rather less attention has been paid to the impact of xenophobia on the experiences of migrant children (Hillier 2007; Fritsch et al. 2010).

One of the major sites for xenophobic ostracism of foreign children is the South African school system. Early investigations of discrimination in post-apartheid South African schools focused on the persistence of racism (Vally and Dalamba 1999; Mda and Mothata 2000; Jansen 2001). Later studies pointed out that migrant and refugee children face serious obstacles in accessing government schools in South Africa

(Timngum 2001; Stone and Winterstein 2003; Belvedere 2010; Motha 2004, 2005; Buckland 2011). These barriers include demands for study permits and birth certificates, language admission tests, claims that schools are full, being relegated to the bottom of enrolment lists, geographical inaccessibility and unwarranted fee demands.

This paper focuses on the case of Zimbabwean children in South Africa. Migration from Zimbabwe to South Africa has increased dramatically over the last decade with the economic meltdown and protracted political crisis in that country (Crush and Tevera 2010). Zimbabweans of all ages and educational and skill levels now migrate to South Africa. Some enter with legal work and residence or study permits, others enter legally on short-term temporary visas and stay on after these have expired. Others, including many unaccompanied children, enter clandestinely under hazardous conditions (Obser 2010; Chivugare 2011). Some are refugees, others are economic migrants. The majority of migrants in a recent survey gave economic reasons for leaving for South Africa (Crush et al. 2012). At the same time, between 2002 and 2009, over 300,000 Zimbabweans applied for political asylum in South Africa. The South African government argued that they were largely “bogus” claimants and offered an amnesty to try and divert Zimbabweans away from the overburdened refugee protection system. A total of 275,000 people applied for the amnesty, significantly increasing the numbers of legal residents while simultaneously reducing the number of asylum seekers. Some researchers suggest that the number of irregular Zimbabwean migrants in South Africa is still in the hundreds of thousands. Whether such guesstimates are accurate or not, it is clear that the legal standing of migrants and migrant children in South Africa does vary considerably.

In the 1990s, the vast majority of migrants were adults who left their children behind with relatives in Zimbabwe. While most migrants are still adults, there have been two major changes in recent years. First, more and more Zimbabwean migrants are settling in South Africa and bringing their children with them or sending for them on arrival (Crush et al. 2012). Second, there has been a marked growth in independent child migration from Zimbabwe (Hillier 2007; Palmary 2009). There is a pervasive assumption amongst South Africans that neither group should have any right to an education in South Africa (Crush et al. 2008). In fact, this view is inconsistent with the various international human rights conventions to which South Africa is a signatory. It also violates the Bill of Rights in the South African Constitution as well as legislation and stated government policies concerning the access of all children in the country to an education (Palmary 2009).

This paper argues that the legal status of Zimbabwean migrant parents and their children, as well as independent child migrants, is largely immaterial when it comes to the issue of access to the South African school system. All Zimbabwean children, irrespective of their immigration status in South Africa, confront the same kinds of obstacles when they or their parents and guardians seek to access the public South African educational system. There is significant evidence that schools themselves are not observing the children’s rights guaranteed in international conventions and the South African Constitution. This is partially the result of institutionalised xenophobia in the school system but schools also operate with conflicting mandates from government which provides them with sufficient latitude to erect “legitimate” barriers to admission.

The second issue addressed in this paper concerns the experience of xenophobia by migrant children from Zimbabwe. Previous case studies have drawn attention to some of the ways in which xenophobia manifests itself in the classrooms and playgrounds. 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 labels such as *kwerekwere*, *kalanga* and *grigamba*) (Osman 2009).¹ In another study of the inner city, 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" (Motha and Ramadiro 2005, p. 19). A micro-study in Cape Town reported similar findings among a group of younger refugee children (Livesey 2006). A 2010 study of 150 high school students in three Cape Town schools found that myths about migrants were "frequently reiterated" in interviews and focus groups (Hill 2010). This paper revisits the question of classroom and playground xenophobia with new data from Zimbabwean children and parents.

The Right to an Education

South Africa's International Obligations

South Africa ratified the UN Convention on the Rights of the Child on 16 June 1995 (a highly symbolic date commemorating the beginning of the iconic Soweto uprising in 1976 and celebrated every year as a national holiday "Youth Day"). Section 28 of the Convention commits states to recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, to make primary education compulsory and available free to all; to encourage the development of different forms of secondary education, including general and vocational education; to make 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; to make higher education accessible to all on the basis of capacity by every appropriate means; and to take measures to encourage regular attendance at schools and the reduction of dropout rates. The Convention is very clear that rights apply to all children in a country, regardless of their or their parents' or guardians' nationality or legal status. Article 2(1), for example, 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

¹ *Kwerekwere* and *grigamba* are used to demean all foreign Africans while *kalanga* is usually reserved for Zimbabweans. The origins and precise meanings of these insults are disputed.

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 (Africa Union 2009). Article 11 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. It advocates respect for human rights and fundamental freedoms; for preserving and strengthening of positive African morals, traditional values and cultures; and for preparing 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 realisation of the right to education through various measures including free and compulsory basic education, developing secondary education and making it free and accessible to all and making higher education accessible to all on the basis of capacity and ability. In addition, states commit themselves to encouraging regular attendance at schools, reducing dropout rates and taking special measures to ensure equal access to education by female, gifted and disadvantaged children. These Charter rights are for all children in a country: "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."

South African Constitutional and Legal Guarantees

The Bill of Rights in the post-apartheid South African Constitution is consistent with both the UN Convention and the African Charter (Government of South Africa 2009). Section 29(1)(a) establishes the right to basic education (for all children and adults) "as an immediate right unqualified by any limitation related to progressive realisation" (Lake and Pendlebury 2009, p. 19). Government has an obligation to ensure that every child has access to educational facilities and enjoys the right to education. It also means that government 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 obligations to all children in the country.

South African legislation is generally consistent with the Constitutional guarantee of the right to education 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)) (Government of South Africa 1996a). Or again, Section 5(1) of the South African Schools Act 84 of 1996 declares that, "a public school must admit learners and serve their educational requirements without unfairly discriminating in any way" (Government of South Africa 1996b). Finally, 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 (Government of South Africa 1998a). Additional rights of access to education for refugees in South Africa are specifically 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” (Government of South Africa 1998b).

Schools as “Agents” of Immigration Control

Between 1994 and 2002, migration to South Africa was governed by the apartheid era Aliens Control Act whose primary goal was to exclude and deport migrants. In 2002, it was replaced by a new Immigration Act that liberalised some aspects of apartheid legislation but intensified others, particularly draconian enforcement provisions (Crush and Dodson 2009; Landau 2010; Vigneswaran et al. 2010; Klotz 2012). The Immigration Act directly contravenes the spirit and purpose of the Conventions, the Bill of Rights, the Refugees Act and the educational legislation. Section 2(1)(c) of the Immigration Act notes, for example, that the Department of Home Affairs is to “detect and deport illegal foreigners” and that it should “inspect institutions of learning to ensure that illegal foreigners are not enrolled therein” (Section (2)(b)) (Government of South Africa 2002). Section 39 (1) notes that “no learning institution shall knowingly provide training or instruction to (a) an illegal foreigner; (b) a foreigner whose status does not authorize 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. 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 Constitutional right to education for all children and the Immigration Act’s prohibition on training or instruction to certain categories of child (Polzer 2007). School principals and boards therefore operate with conflicting mandates. The Admission Policy for Ordinary Public Schools notes that parents must complete an application form for admission and 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. These conditions clearly only 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.

The Admission Policy for Ordinary Public Schools does state that “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 legalize 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, the Aliens Control Act is no longer in force and the Immigration Act of 2002 contains no provisions for regularisation. In any event, the point is a moot one since the Bill of Rights entitles all children to an education. The Admission Policy for Ordinary Public Schools legislation seeks to bar children from schools on the basis of the legal status of their parents and is clearly unconstitutional. As Polzer (2007) 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.”

Removing Foreign Children from the Children’s Act

In 2002, the government tabled an omnibus Children’s Bill in Parliament. Given recurrent reports that foreign children were being denied admission to South African schools, human rights groups focused on ensuring that their rights were protected in the Bill. Concerns about the lack of protection for migrant children intensified during 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) (Government of South Africa 2006). In 2004, the Children’s Bill Working Group (an alliance of 24 major non-governmental organisations including lawyers for human rights, the Southern African Catholic Bishops’ Conference and the South African National Council for Child Welfare) called the Bill a “pale shadow” of the 2002 original which cut children’s rights to the bone. Critical issues sacrificed in the process included the rights of child refugees and undocumented foreign children (Children’s Bill Working Group CBWG 2004). Educational rights and the right of children to appropriate services were also “gone.” In short, the Group concluded that the Bill had “lost its soul.”

Human rights lawyers were sceptical of government’s motives in removing the references to foreign children 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 (Machingambi and Ralekwa 2005). 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” (Refugee Rights Project RRP 2006).

In defending the decision to drop references 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 (Palmary 2009). The Department further noted that the removal of any explicit mention of foreign children from the Bill was a positive development since it reaffirmed the Department’s commitment to the inclusion of all children irrespective of status and nationality and to provide services to all children in the country (Lawyers for Human Rights LHR 2006).

According to a sceptical LHR “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” (Lawyers for Human Rights LHR 2006, p. 1).

If “a child is a child”, as the Minister maintained, then there should be absolutely no barriers to migrant children accessing the educational system in South Africa, and rates of school attendance should theoretically be the same for all children in the country. However, the 2007 South African Community Survey found that of 53,524 children aged 7–15 born outside the country, 6,438 (or 12 %) were not in school at all (Fleisch et al. 2009, 2012). 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 (Consortium for Refugees and Migrants in South Africa CoRMSA 2009). The non-attendance rate was 12 % for school-going age children of permanent residents, a figure that rose to 21 % of refugee children and 23 % of children of asylum seekers. Finally, 43 % of the children of irregular migrants were not in school. The prevalence of non-attendance varies 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.

Study Methodology

The fieldwork for this study was conducted in Cape Town and Johannesburg in August and September 2010. Although Zimbabwean migrants are scattered around South Africa, the majority live in these two cities. Within each city, migrants were interviewed in three different neighbourhoods. In Cape Town, these included Observatory (a middle-income suburb), Du Noon (an informal settlement) and Masiphumelele (a township). In Johannesburg, interviews were conducted in the Inner City (a high-density area of apartment dwellings), Alexandra (a township) and Orange Farm (an informal settlement). The research began by identifying migrants as initial sampling points. Considerable effort was made to ensure that these sampling points were of varied background 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 (Crush et al. 2012). Within each community, a “snowball” sampling strategy was then adopted to identify subsequent respondents for interview. This involved asking interviewees to identify other possible respondents in their own personal networks.

One hundred in-depth interviews were conducted with migrants, 50 in each city. Fifty-five percent of the interviewees were men while women constituted 45 %. With regard to marital status, 45 % of the interviewees were married, 47 % were single while 8 % were widowed or divorced. Migrants within the 25–39 year age group made up the largest proportion of the sample with 55 % while the 18–24 year group constituted 33 % and 12 % were found in the 40+ age group. The sample was relatively well-educated: 8 % reported having primary school education, 70 % a high school level and 22 % had

acquired a tertiary education. The majority of the interviewees held asylum or refugee permits, (58 %) while 15 % had work permits and only 3 % held permanent resident status. The other 24 % reported that they had no official documentation (although some within this group indicated that they were in the process of regularising their stay in the country).

A total of 10 focus group discussions were also conducted, five in each city. Each focus group was held with 10 participants, five of whom were males and the other five females (the exception being two focus groups in Masimphumelele in Cape Town where each focus group consisted of nine participants and female participants outnumbered males). Members of different age groups were also represented in each focus group: the young (below 25 years), the middle-aged (25–45) and those above the age of 45 years. This was done to try and capture varied experiences from the groups. Besides collecting additional information and opinions, the focus group discussions gave respondents the opportunity to talk about and compare their personal experiences. All of the field researchers were Zimbabwean and spoke the major Zimbabwean languages (Shona and Ndebele). Because of the non-random sampling method, the findings of the survey are indicative rather than statistically representative.

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 believed that because they were foreigners, they had privileges rather than rights and that these could be taken away by the South African government.

Barriers to Admission

The interviews with Zimbabwean parents leave little doubt that they want to enrol them in local schools, Professor Jansen's negative opinion of the quality of those schools notwithstanding. The fact that nearly a quarter of the children of refugees and asylum seekers and as many as 40 % of the children of irregular migrants are not in school suggests that there are considerable practical barriers to admission.

The National Department of Education requires all parents to provide a birth certificate and immunisation card before their children can be registered at a state school. Lawyers for Human Rights and CoRMSA have found that schools often turn children away if their parents cannot produce these documents (Lawyers for Human Rights LHR and CoRMSA 2010). All of the migrants in this study indicated that it is very difficult to enrol children in South African schools without these documents. Passports or asylum and refugee documentation are generally not accepted as alternatives. One woman described how she failed to secure a place for her daughter because she did not have her 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.²

Most school authorities do not allow parents to enrol their children while they try to secure the required documentation.

Many Zimbabwean nationals left their country under crisis conditions and did not have time to acquire birth certificates for their children, even if they had known they needed them. More generally, it is highly problematic to expect any asylum seeker or refugee to return to the country they fled to obtain a birth certificate before their children can be enrolled in a South African school. Even obtaining a birth certificate for a child born in South Africa can be difficult as parents need to present birth records from the institution where the child was born. Some hospitals refuse to provide them with birth records, claiming that non-South Africans are not entitled to any documents. While Zimbabwean parents often face a considerable challenge in obtaining birth certificates, some do have them already or are able to use their contacts in Zimbabwe to obtain them. However, unaccompanied migrant children from Zimbabwe are highly unlikely to carry their own birth certificates or to know how to obtain them if they do not. In other words, these children are for the most part shut out completely from an education by schools in South Africa. As noted above, however, it is by no means certain from the South African legislation and regulations that Zimbabwean parents and unaccompanied children should even be required to produce birth certificates at all.

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 supposed to provide fee exemptions for children from low-income households (Hall and Giese 2009). Some children should therefore be eligible for full fee exemptions. The loss of revenue made schools reluctant to implement the policy, or to accept children from households that could not pay fees. In 2007, a new national funding policy was therefore implemented in which the poorest 40 % of schools were granted no-fee status.

In fee-paying schools, migrant parents are usually asked to make full payment up front and are likely to make particular financial sacrifices to ensure that school fees are paid. One mother noted that if she did not pay her daughter’s school fees, “my child is excluded from classes by being made to sit in the staff-room so that she does not get to learn.”³ Unaccompanied migrant children lack the backup resources to pay fees and schools are not loath to use any means at their disposal to try and collect: “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” (Lawyers for Human Rights LHR and CoRMSA 2010).

² Interview no. 30, Du Noon, Cape Town, 25 August 2010.

³ Interview no. 10, Observatory, Cape Town, 23 August 2010.

Government policy is that, wherever possible, students are to be schooled in the area in which they are domiciled. In theory, this should reduce the costs for parents of transporting children to school. In practice, the children of migrants are generally given lowest priority in terms of admission. This means that local schools are often full which forces the parents to try and find openings in schools in other areas of the city. One Zimbabwean parent in the Cape Town suburb of Observatory described how he was unable to enrol his children in Observatory or the neighbouring suburbs of Mowbray and Salt River. He eventually found a place for them in a school in Wynberg, 10 km away. The cost of getting the children to and from school each day led to considerable financial hardship for the family: "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."⁴

Migrant parents respond in various ways when their children are shut out of government schools. One strategy is to shop around for schools that will admit them. Another is to enrol the children in private schools. A significant number of migrant children from better-off families are in private schools but the fees are high and far more than the average migrant family can afford. Many Zimbabwean migrants in South Africa, and in this study, are employed in low-paying jobs in the hospitality and construction sectors where they work as waiters, cleaners, bartenders, security guards and general hands (Crush et al. 2012). With these kinds of jobs, most find it very difficult to consistently pay for their children's educational costs. Some keep 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, they eventually resort to sending their children back to Zimbabwe.⁵

Discrimination and Xenophobia

Why do schools systematically discriminate against the children of Zimbabwean migrants, and unaccompanied Zimbabwean migrant children, in their admission policies? First, and most charitably, the regulations governing admission to schools are unclear and contradictory. The regulations are written in such a way that it is not at all obvious that foreign-born children actually do have to produce birth certificates prior to admission. Demands for birth certificates do not seem unreasonable if the purpose is identification and confirmation of age. But if that was the primary intent, then other identity documents ought to be acceptable as well. Given the reality that many migrants do not possess birth certificates for their children and find it extremely difficult to obtain them, whether they were born inside or outside South Africa, the rigid application of this requirement appears to have other motivations.

Second, if schools are simultaneously told that it is their duty to admit all children regardless of origin and legal status and, at the same time, to act as the frontline in identifying and reporting "illegal foreigners" to the police on pain of punishment, they are likely to choose the enforcement approach. If, in addition, schools actually object to the idea of providing education for non-South Africans, as many do, then

⁴ Interview no. 11, Observatory, Cape Town, 23 August 2010.

⁵ Participant in focus group discussion, Alexandra, Johannesburg, 1 September 2010

they are certain to align themselves with the Immigration Act of 2002 and bar foreign children from the schools, whatever the Constitution says on the matter.

Third, there is every possibility that intolerance and xenophobia are playing a role in the exclusion of Zimbabwean children from the classroom. Levels of anti-migrant intolerance are extremely high amongst all sections of the South African population. One of many strongly held ideas is that foreigners use up resources, including educational resources that should be reserved for South Africans. Companion research to this paper has demonstrated that Zimbabweans face similar difficulties when they seek to access public health facilities in South Africa (Crush and Tawodzera 2011). In the case of public hospitals and clinics, there is demonstrable evidence of discrimination motivated by xenophobia. In the case of schools, the discrimination appears to be less overt and more subtle probably because there are ways of excluding foreign children without resort to racist and xenophobic language, as occurs at many public health facilities. Most of the direct evidence for xenophobia in the school system from our study comes from accounts of how Zimbabwean children are treated once they are admitted to school.

Focus group discussions in both Cape Town and Johannesburg reveal the kind of petty discrimination and hostility that Zimbabwean children face from teachers in schools:

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?⁶

In addition, migrant students are subjected to xenophobic taunts from students as well as teachers who do not like them in their classes. One parent in Cape Town recounted how her 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 are 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.⁷

The parents report that such treatment makes their children feel alienated, inferior and unwanted. Some become depressed and withdrawn and do not participate in class or take part in extramural activities.

⁶ Participant in focus group discussion, Alexandra, Johannesburg, 1 September 2010

⁷ Interview no. 85, Alexandra, Johannesburg, 1 September 2010.

Most parents or guardians would take bullying and threats of violence to the school authorities. However, the focus group discussions revealed that this is no easy thing for Zimbabwean parents. They are usually left frustrated as school authorities do not take the threats seriously, even after the nationwide xenophobic violence of May 2008 (Crush et al. 2008). Some parents even suggested that school authorities do not act because the students' xenophobic attitudes mirror their own feelings towards foreigners. They usually do not report the cases or confront the school authorities for fear that their children will be further victimised or their place at school jeopardised. As one parent in 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.⁸

Parents are certainly convinced 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 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".

Conclusion

This paper has identified some of the obstacles which Zimbabwean children face in accessing government schools in South Africa and the ways in which they are treated if they do gain access. Exclusion and discrimination occur irrespective of their legal status in the country and there is clear evidence of "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 and other hardship.

The criteria for decisions about who should be educated in South Africa should arguably be governed by the international conventions which the South African government has ratified and its own Bill of Rights. These instruments certainly agree that education cannot be denied to any child in South Africa on the basis of the nationality of their parents or guardians. In public debates 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 applied to all children, regardless of origin or nationality. This paper calls this argument into question and demonstrates that government and schools are 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.

⁸ Focus group discussion, Orange Farm, Johannesburg, 2 September 2010.

The national policy and legislative framework around school admission not only appears to violate these instruments, it 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 and proof of immunisation. But to use non-compliance or a lack of documentation to single out Zimbabwean children, relegating them to the bottom of enrolment lists or denying them access altogether is clearly discriminatory.

There is also evidence that Zimbabwean children who are admitted to schools are singled out in the classroom by teachers and fellow students for being foreign. The fact that there are students in South African schools who taunt and verbally abuse foreign students is a clear indicator that adult xenophobia has leached downwards to South African schoolchildren. Tackling xenophobia in the schools would be a substantial step towards producing the educated, tolerant and accepting South African citizenry envisaged by the Constitution. There are isolated examples of what can be achieved. Claireville Primary School in Durban, for example, opened its doors to foreign students in 1997, when three pupils from the DRC began attending. One third of the 768 pupils are now from other African countries, with the South African pupils coming mainly from a nearby informal settlement. The principal recalled 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” (IRIN 2009). Instead of being a refuge from widespread xenophobia like this, the majority of schools seem to opt to be sites for its perpetuation.

Acknowledgments We wish to thank the Open Society Initiative for Southern Africa and the IDRC for funding the research on which this paper is based and the Zimbabwean students who assisted with the research.

References

- Abdi, C. (2011). Moving beyond xenophobia: structural violence, conflict and encounters with the ‘other’ Africans. *Development Southern Africa*, 28(5), 691–704.
- Adjai, C. (2010). The halo slips? Xenophobia and its consequences in the new South Africa. PhD Thesis. University of Leicester.
- Africa Union (2009). African charter on the rights and welfare of the child. http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/A.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf. Accessed 21 Jan 2011.
- Amit, R. (2011). No refuge: flawed status determination and the failures of South Africa’s refugee system to provide protection. *International Journal of Refugee Law*, 23(4), 458–488.
- Barbali, S. (2009). Coping with xenophobia: Senegalese migrants in Port Elizabeth. MA Thesis. Rhodes University.
- Belvedere, F. (2010). National refugee baseline survey: final report. Pretoria, Community Agency for Social Enquiry (CASE).
- Bloch, A. (2010). The right to rights? Undocumented migrants from Zimbabwe living in South Africa. *Sociology*, 44(2), 233–250.
- Buckland, S. (2011). From policy to practice: the challenges to educational access for non-nationals in South Africa. *International Journal of Educational Development*, 31(4), 367–373.

- Children's Bill Working Group (CBWG). (2004). Joint submission on the children's bill to the portfolio committee on social development, Cape Town, July 2004. http://www.ci.org.za/depts/ci/plr/pdf/subs/jul04/cbill_working_group.pdf. Accessed 25 Jan 2011.
- Chagonda, T. (2012). Teachers' and bank workers' responses to Zimbabwe's crisis: uneven effects different strategies. *Journal of Contemporary African Studies*, 30, 83–97.
- Chireshe, R., & Shumba, A. (2011). Teaching as a profession in Zimbabwe: are teachers facing a motivation crisis? *Journal of Social Science*, 28, 113–118.
- Chisholm, L. (2005). The state of South Africa's schools. In J. Lutchman, R. Southall, & J. Lutchman (Eds.), *State of the nation: South Africa 2004–2005* (pp. 201–226). Pretoria: HSRC.
- Chivugare, B. (2011). Children crossing borders: an evaluation of state response to migrant unaccompanied minors at Musina-Beitbridge border post, South Africa. MA Thesis. University of Johannesburg.
- Consortium for Refugees and Migrants in South Africa (CoRMSA). (2009). *Protecting refugees, asylum seekers and immigrants in South Africa*. Johannesburg: CoRMSA.
- Crush, J., & Dodson, B. (2009). Another lost decade: the failures of South Africa's post-apartheid migration policy. *Tijdschrift voor Economische en Sociale Geografie*, 98(4), 436–454.
- Crush, J., & McDonald, D. (Eds.). (2002). *Transnationalism and new African immigration to South Africa*. Toronto: Canadian Association of African Studies.
- Crush, J., & Tawodzera, G. (2011). *Zimbabwean access to health services in South Africa*. SAMP Migration Policy Series No. 54. Cape Town: SAMP.
- Crush, J., & Tevera, D. (Eds.). (2010). *Zimbabwe's exodus: crisis, migration, survival*. Ottawa: IDRC.
- Crush, J., Chikanda, A., Tawodzera, G., & Tawodzera, G. (2012). *The third wave: mixed migration from Zimbabwe to South Africa*. SAMP Migration Policy Series No. 59. Cape Town: SAMP.
- Crush, J., et al. (2008). *The perfect storm: the realities of xenophobia in contemporary South Africa*. SAMP Migration Policy Series No. 50. Cape Town: SAMP.
- Dodson, B. (2010). Locating xenophobia: debate, discourse, and everyday experience in Cape Town, South Africa. *Africa Today*, 56(3), 2–22.
- Everatt, D. (2011). Xenophobia, state and society in South Africa, 2008–2010. *Politikon*, 38(1), 7–36.
- Fleisch, B., Shindler, J., & Perry, H. (2009). Children out of school: evidence from the community survey. In S. Pendlebury, L. Lake, & C. Smith (Eds.), *South African child gauge 2008/2009* (pp. 41–45). Cape Town: UCT Children's Institute.
- Fleisch, B., Shindler, J., & Perry, H. (2012). Who is out of school? Evidence from the Statistics South Africa Community Survey. *International Journal of Educational Development*, 32(4), 529–536.
- Fritsch, C., Johnson, E., & Juska, A. (2010). The plight of Zimbabwean unaccompanied refugee minors in South Africa: a call for comprehensive legislative action. *Denver Journal of International Law and Policy*, 38(4), 99–105.
- Gebre, L., Maharaj, P., & Pillay, N. (2011). The experiences of immigrants in South Africa: a case study of Ethiopians in Durban, South Africa. *Urban Forum*, 22(1), 705–718.
- Government of South Africa (1996a). The national education policy Act, 1996. <http://www.info.gov.za/acts/1996/a27-96.pdf>. Accessed 3 March 2011.
- Government of South Africa (1996b). South African School's Act, 1996. <http://www.info.gov.za/acts/1996/a84-96.pdf>. Accessed 3 March 2011.
- Government of South Africa (1998a). National Education Policy Act, 1996. Department of Education. <http://www.polity.org.za/polity/govdocs/notices/1998/not98-2432.html>. Accessed 3 March 2011.
- Government of South Africa (1998b). Refugees Act of 1998. <http://www.home-affairs.gov.za/PDF/Acts/Refugees%20Act130.pdf>. Accessed 21 Jan 2011.
- Government of South Africa (2002). Immigration Act 2002. Government Gazette. <http://www.info.gov.za/view/DownloadFileAction?id=68047>. Accessed 21 Jan 2011.
- Government of South Africa (2006). Children's Act 2005. Government Gazette. <http://www.info.gov.za/view/DownloadFileAction?id=67892>. Accessed 22 Jan 2011.
- Government of South Africa (2009). Chapter 2—Bill of Rights. <http://www.info.gov.za/documents/constitution/1996/96cons2.htm>. Accessed 21 Jan 2011.
- Hall, K., & Giese, S. (2009). Addressing quality through school fees and school funding. In S. Pendlebury, L. Lake, & C. Smith (Eds.), *South African child gauge 2008/2009* (pp. 35–40). Cape Town: UCT Children's Institute.
- Hill, A. (2010). Youth attitudes to foreigners in South Africa: the impact of the post-apartheid education system. MSc Thesis. Oxford University.
- Hillier, L. (2007). *Children on the move: protecting unaccompanied migrant children in South Africa and the region*. London: A Report by Save the Children UK.

- Hunt, F. (2007). Policy in practice: teacher–student conflict in South African schools. In M. Dunne & F. Leach (Eds.), *Education, conflict and reconciliation* (pp. 155–168). Oxford: Peter Lang.
- IRIN (2009). South Africa: School a refuge from xenophobia. IRIN 24 November. <http://www.irinnews.org/report.aspx?reportid=87171>. Accessed 2 May 2011.
- Jansen, J. (2001). *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. Johannesburg: Soul City.
- Jansen, J. (2010). Zim can teach us a thing or two: that country's schools work, its teachers really teach. *Sunday Times*, December.
- Jinnah, Z. (2010). Making home in a hostile land: understanding Somali identity, integration, livelihood and risks in Johannesburg. *Journal of Sociology and Social Anthropology*, 1(1), 91–99.
- Klotz, A. (2012). South Africa as an immigration state. *Politikon. South African Journal of Political Studies*, 39(2), 189–208.
- Lake, L., & Pendlebury, S. (2009). Children's right to basic education. In S. Pendlebury, L. Lake, & C. Smith (Eds.), *South African child gauge 2008/2009* (pp. 19–23). Cape Town: UCT Children's Institute.
- Landau, L. (2010). Loving the alien? Citizenship, law, and the future in South Africa's demonic society. *African Affairs*, 109, 213–230.
- Lawyers for Human Rights (LHR) (2006). Submission to public hearings on the children's amendment Bill. Gauteng. [http://www.ci.org.za/depts/ci/plr/pdf/publichearings/gauteng/Submissions/LHR SubmissionOctober2006.pdf](http://www.ci.org.za/depts/ci/plr/pdf/publichearings/gauteng/Submissions/LHR%20SubmissionOctober2006.pdf). Accessed 3 March 2011.
- Lawyers for Human Rights (LHR) and CoRMSA (2010). 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.
- Livesey, T. (2006). A survey on the extent of xenophobia towards refugee children. M. Diaconology Thesis. UNISA.
- Lumadi, M. (2008). Teachers' exodus in South African schools: a smoke with burning fire. *Issues in Education Research*, 1(3), 31–40.
- Machingambi, N., & Ralekwa, S. (2005). Children's Bill: foreign children. Submission to National Council of Provinces, South African Parliament.
- Matereke, K. (2011). 'Whipping into line': the dual crisis of education and citizenship in postcolonial Zimbabwe. *Educational Philosophy and Theory*, 44(s2), 84–99.
- McNight, J. (2008). Through the fear: a study of xenophobia in South Africa's refugee system. *Journal of Identity and Migration Studies*, 2(2), 18–42.
- Mda, T., & Mothata, M. (2000). Critical issues in South African education after 1994. Kenwyn: Juta.
- Milner, K., & Khoza, H. (2008). A comparison of teacher stress and school climate across schools with different matric success rates. *South African Journal of Education*, 28(1), 155–173.
- Mosselson, A. (2010). 'There is no difference between citizens and non-citizens anymore': violent xenophobia, citizenship and the politics of belonging in post-apartheid South Africa. *Journal of Southern African Studies*, 36(3), 641–655.
- Motha, S. (2004). The right to education for asylum seekers, documented migrants, and refugees in South Africa. *Quarterly Review of Education and Training in South Africa*, 11(3), 27–30.
- Motha, S. (2005). *The education rights of refugees, asylum seekers and migrants in South Africa*. Johannesburg: Education Rights Project, Wits Education Policy Unit.
- Motha, S., & Ramadiro, B. (2005). *Education rights of migrants in the inner city of Johannesburg*. South Africa. Johannesburg: Wits Education Policy Unit and Khanya College.
- Neocosmos, M. (2010). *From 'foreign natives' to 'native foreigners': explaining xenophobia in post-apartheid South Africa*. Senegal: CODESRIA.
- Nyamnjoh, F. (2006). *Insiders and outsiders: citizenship and xenophobia in contemporary Southern Africa*. London: Zed.
- Obser, K. (2010). *Victims or villains? Deconstructing the policing of migrant children in South African border towns*. MA Thesis. University of Witwatersrand.
- Osman, R. (2009). *The phenomenon of xenophobia as experienced by immigrant learners in inner city schools of Johannesburg*. M.Ed. Thesis. UNISA.
- Palmary, I. (2009). *For better implementation of migrant children's rights in South Africa*. Report for UNICEF. Johannesburg: Forced Migration Studies Programme.
- Polzer, T. (2007). *Education access for non-citizens in border areas*. Discussion Brief for National Department of Education, Forced Migration Studies Program. Johannesburg: Wits University.

- Rugunanan, P., & Smit, R. (2011). Seeking refuge in South Africa: challenges facing a group of Congolese and Burundian refugees. *Development Southern Africa*, 28(5), 705–718.
- Refugee Rights Project (RRP). (2006). Submission to the portfolio committee on social development (2007) on the Children's Amendment Bill [B19B-2006]. Cape Town <http://www.ci.org.za/depts/ci/plr/pdf/subs/aug07/UCT%20Law%20Clinic%20Submission%20on%20B19B-2006.pdf>. Accessed 3 March 2011.
- Segatti, A., & Landau, L. (Eds.). (2011). *Contemporary migration to South Africa: a regional development issue*. Washington: World Bank.
- Steenkamp, C. (2008). Xenophobia in South Africa: what does it say about trust? *The Round Table*, 98(403), 439–447.
- Stone, L., & Winterstein, S. (2003). *A right or a privilege? Access to basic education for refugee and asylum-seeker children in South Africa*. Johannesburg: Report for National Consortium for Refugee Affairs.
- Sutton, R., & Vigneswaran, D. (2011). A Kafkaesque state: deportation and detention in South Africa. *Citizenship Studies*, 15(5), 627–642.
- Timngum, D. (2001). Assisting urban refugee children in South Africa: humanitarian challenges to state and non-state actors. MA Thesis. Johannesburg: University of Witwatersrand.
- Vally, S., & Dalamba, Y. (1999). *Racism, 'racial integration' and desegregation in South African public secondary schools*. Braamfontein: South African Human Rights Commission.
- Vidal, D. (2010). Living in, out of, and between two cities: migrants from Maputo in Johannesburg. *Urban Forum*, 21(1), 55–68.
- Vigneswaran, D., Araia, T., Hoag, C., & Tshabalala, X. (2010). Criminality or monopoly? Informal immigration enforcement in South Africa. *Journal of Southern African Studies*, 36, 465–481.