



Refugee and
Migrant Learners
:Access to
Education: A
Policy and
Practical Review

November 20

2010

Socio-economic policies
impacting on lives of
Refugee Children and
Unaccompanied Minors in
South Africa.

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Section 1: Background and Introduction

This is the first of a series of analytical reports that provide findings on the experiences and effects of socio-economic policies on refugees and unaccompanied minors residing in South Africa. Refugee and unaccompanied minors are impacted upon by policies formulated by the South African government. Many socio-economic policies formulated and pursued by governments generally aim to improve the livelihood and well-being of all those living in a country. These policies are seldom formulated and implemented from the perspective of refugee children and unaccompanied minors. Refugee children and unaccompanied minors seldom participate in policy formulation and implementation processes, yet they are affected by the manner these policies are implemented.

This report provides an analysis of South Africa's education policies, specifically focusing on implementation experiences of refugee children and unaccompanied minors access to education. Access to education is the most important social intervention for a refugee and migrant child. It is through education that refugee children and unaccompanied minors may be able to restart life in and improve their wellbeing.

UNICEF reports that 446 568 children in South Africa who are between the ages of seven and seventeenth were out of school during 2006 (UNICEF. The Presidency of the Republic of South Africa. , 1999). African children constituted the majority of children who are out of school. While the total number of refugee children who are out of school is not known, anecdotal evidence suggest that the majority are not enrolled in schooled. They face numerous challenges that inhibit their right of access to education. These range from lack of official documents that schools require to enrol learners, inability to pay school fees, adjustment from trauma of xenophobia, social exclusion etc. The analysis contained in this report aims to build an understanding of the educational challenges faced by refugee and migrant children, particularly their access to education. The analysis aims to provide policy recommendations in order to enable refugee and migrant children to have access to education.

While this study concentrates on analysis policy impact on refugee ad migrant learners residing in Gauteng, it has implication for the rest of the country.

Methodology

We used two qualitative research techniques to gather and analyse data on access to education. The two research techniques are policy study and interviews. Existing policies that deals with access to education, published by the South African Government and the United Nations were reviewed. The findings from this review are contained in the second section of this report. Other published research that deals with access to education either from a research point of view or policy review is included in different parts of this report.

In order to understanding the effect of policies on refugee and unaccompanied minors, RCP interviewed educators from at 25 different schools. These schools are located at the different Municipalities found in the Gauteng Province. These schools were purposively selected because of their large percentage of refugee learners. However, the schools at Mogale City

were selected because they have the smallest number of Refugee Children if any. The aim was to measure the schools readiness to accommodate refugee and migrant children. Details of the primary, high and secondary schools where interviews were conducted are tabulated below.

Table 1: Schools Interviewed

	Names of Schools
Ekurhuleni Metropolitan Municipality	Endulweni Primary School
	Thulisa Primary School
	Tlamatlama Primary School
	Thokoza Primary School
	Thisetsong Secondary School
	Danview High School

	Names of Schools
Johannesburg Metropolitan Municipality	Athlone Boys High School
	Troyeville Primary School
	The Hill High School
	Rosettenville Central Primary School
	Observatory East Primary School
	John Mitchell Primary School
	Forest Hill Primary School
	Empumalanga Primary School
	Bertrams Junior School
	Barnato Park High School

	Names of Schools
Tshwane Metropolitan Municipality	HL Setlaletoa Secondary School
	Edendale Pepps School
	DA Mokoma secondary School
	Burgher Right Primary School
	Amogelang Secondary School
	Andrew Anthony Primary School
	Agnes Chidi Primary School

Municipality	Names of Schools
Mogale City	Mphe-Thuto Primary School
	Discovery Primary School

In addition to above RCP interviewed 50Learners and Refugee Parents whose children are enrolled at the different schools in the Gauteng Province. Like the children, the Parents were purposively sampled to enable us to obtain as much information on access to education in South Africa.

Definition

The South African government defines access to education as a proportion of school-aged children who are enrolled at school (UNICEF. The Presidency of the Republic of South Africa. , 1999). Access to education is meaningful if it's epistemic, i.e. allows access to learning and content knowledge. Indicators for access to education includes high attendance rates, uninterrupted progression through grades, and learning outcomes appropriate to different learning areas and phases of education (UNICEF. The Presidency of the Republic of South Africa. , 1999).

The concept access to education will be defined in this report using its simplest definition, namely the removal of barriers to education to enable children of school going age to enrol, study and complete both primary and secondary school. It is estimated that 687 000 children in South Africa are out of school. The causal factors for this are not fully known, but it can be safely assumed that they are faced with one of many barriers to education. UNICEF (2006) identified the following factors as some of the barriers to education in South Africa, long and hazardous journey between home and school; domestic and agricultural chores; hunger; school uniforms and fees; ill health; HIV and AIDS; violence in schools; disability; sexual harassment; and teen pregnancy¹.

The barriers vary according to each individual. In some instances the barriers are caused by the fact that learner is physically challenged. Some barriers may evolve from the "organisation of the ordinary school, its curriculum, teaching and learning strategies" (UNESCO, 2005).

Access to education has at its core the achievement of the United Nations Agenda framed within the context of Education for All. In defining the concept access to education, cognisance needs to be taken of current International discussion under the auspices of the United Nations Agenda of Education For All. Education for all presupposes the total removal of all barriers in order to enable any child of school going age to be educated, irrespective of gender, ethnic group etc.

Structure of the Report

The report is divided into three sections. The first section introduces the study and provides the methodology. The second section contains findings from International and Domestic policy analysis. The third section contains findings from structured interviews with

¹UNICEF 2006). **Draft Country Document.**http://www.unicef.org/about/execboard/files/06-PL36-South_Africa.pdf, accessed on 30 October 2010.

educators. The fourth section contains findings from structured interviews with refugee and migrant children. The last section contains conclusion with recommendations.

Section 2: Findings from the Policy Review Study

This section of the report contains an analysis of policies impacting on access to education. The analysis commences with a critical discussion of international policy prior to zooming into South Africa's policies. International practices is also included in order to develop a proper understanding of approaches adopted to enhance access to education in general and its implication for refugee children.

International Policy

The paragraphs below provide an analysis of international policy frameworks and strategies that aim to increase access of children to educational institutions.

Millennium Development Goals

The United Nations adopted the Millennium Development Goals in 2000. These are universal goals whose aim is to guide countries, particularly the poor countries, to investment resources in specific target areas that will improve socio-economic development. Access to education, specifically basic or primary education, is one of the Millennium Development Goals.

Countries have set themselves the target of ensuring that learners, irrespective of their gender, complete primary education. Primary school enrolment of learners, particularly in developing countries, is estimated to have reached 89% by 2008². Half of the remaining 11% of children who are not in school are in Sub-Saharan Africa. The majority of refugees globally are concentrated in Sub-Saharan Africa. Refugee and migrant children are likely to constitute the majority of learners who are out of school. Global enrolment in secondary education has increased from 52% in 1999 to 61% in 2007³ (UNESCO, 2005).

The gross enrolment ratio of children at Gauteng and Limpopo Provinces, the provinces with RCPs offices, is high; it is 98% in Gauteng Province and 102 in Limpopo Province. The additional 4% in Limpopo Province indicates high rate of grade repeat resulting in older learners in some one grade.

	Primary (Gr. 1-7)	Secondary (Gr. 8-12)	Total
Gauteng Province	98	98	98

²UNITED NATIONS SUMMIT 20-22 September 2010, New York, High-level Plenary Meeting of the General Assembly: We can End Poverty: 2015 Millennium Development Goals.

http://www.un.org/millenniumgoals/pdf/MDG_FS_2_EN.pdf Accessed on 10 November 2010

³ Burnett, N. Bermingham, D (2010). Innovative Financing for Education. ESP Working Papers Series No 5. http://portal.unesco.org/en/files/48071/12846412731OSI-R4D_InnovFinEd_BurnettBermingham.pdf/OSI-R4D%2BInnovFinEd%2BBurnettBermingham.pdf accessed on 10 November 2010

Limpopo Province	100	104	102
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Overall enrolment of learners is high in both provinces. High enrolment should not be confused with access to quality education. In addition, even though the official figures suggest high enrolment, one has to walk around Messina to realise the total number of non-South African children who are not in school. Most of these are asylum seekers, unaccompanied minors and children of refugee families.

UN Convention on the Rights of the Child

The United Nations adopted the Convention on the rights of the Child on 20 November 1989. The Convention entered into force on 02 September 1990. The South African government signed the convention on 29 January 1993 and ratified it on 16 June 1995, a year after the first democratic elections. The South African Government is bound by the provisions of the Convention and did not raise any objections or reservations to its articles.

The convention outlines the various rights of the child and moves from the premise that societies have an obligation to prepare a child to live an individual life in society. Articles 2 and 3 of the Convention make the state, the signatories to the convention, responsible for the protection of the rights of a child enshrined in the Convention.

Article 22 of the Convention on the right of the child outlines the responsibilities of the state with regards to refugee and unaccompanied minors. It bestow upon the state the responsibility to provide “appropriate protection and humanitarian assistance” so that the children are able to enjoy applicable rights set forth in various humanitarian instruments including the present Convention.

The convention lists education as one of the inalienable rights of children. Article 28, recognises that the right to education can be achieved progressively. The convention requires states to do the following with regards to education:

- ✚ Make primary education compulsory and available free to all;
- ✚ Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take 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;
- ✚ Make educational and vocational information and guidance available and accessible to all children;
- ✚ Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

Access to all forms of education is the main point flowing from the above interventions. Implementation of these measures will enhance children’s access to education. The convention does not restrict access to general education. It also expands the requirements for

access to include vocational education, higher education, information and guidance on all forms of education and the reduction of drop out. Therefore any intervention whose aim is to enhance access to education should include these measures. Refugee and unaccompanied minors are equally entitled to benefit from the aforementioned interventions so that the state can fulfil their rights to education.

African Charter on the Rights and Welfare of the Child

The African Union adopted the African Convention on the Rights of a Child in 1990 and it entered into force in 1999. South Africa signed the charter in 1997, ratified it on 07 January 2000. The South African government is therefore bound to implement the provisions of the charter. 37 states have ratified the charter.

The content of the charter complements the UN Convention on the Rights of the Child and is informed by the unique sets of socio-economic and cultural conditions that the African Child faces on their growth paths to adulthood. The Charter makes it obligatory for Nation states to formulate policy and intervention frameworks in order to give effects to the rights contained in the Charter. The charter regards a child as anyone who is younger than 18 years. Article 3 of the Charter entitles any child irrespective of gender, creed colour etc., to the full enjoyment of the stipulated rights.

Children's rights to education and related issues are comprehensively addressed in article 11 of the charter. To ensure the full realisation of the children right to education, the charter requires parties to the agreement to:

- ❖ Provide free and compulsory education,
- ❖ Develop secondary education and to progressively make it free and accessible to all,
- ❖ Encourage regular attendance and put measures in place to reduce dropping out
- ❖ Ensure equal access to education of females, gifted and disadvantaged children.

In addition to above the charter stipulates that pregnancy should not be used as a basis to exclude or prevent a female child from completing her studies. Rather than pregnancy, which is a physiological condition, the charter requires educational authorities and states to use "ability" as the main determining criteria for completing school and not pregnancy.

With regards to refugee children, chapter 23 requires states to take all the necessary measures to ensure that refugee children, asylum seekers who are children enjoy the rights contained in this charter including access to education. What the charter does not specifically address is whether states are required to adopt special measures to respond to the need of refugee children access to education, or whether an overarching policy framework for all children suffices.

The South African Government is likely to indicate that existing legislations and policy framework are comprehensive enough and there is no need for a special legislation. However, it is known that refugee children do not enjoy the same rights as South African Children when it comes to access to education. Schools that are not the no-fee schools can

exclude a child if the parents are unable to pay the required school fees. So while education is compulsory in South Africa, it is not free

Refugee parents struggle to enrol their children in schools or obtain school fees exemptions. They have to rely on external institutions to compel schools to implement these policies. Between 2009 and 2010, RCP has assisted many refugee parents and guardian to obtain school fees exemptions. RCPs intervention follows from threat from the schools authorities to exclude the refugee child because they owe school fees.

National Education Policy: South Africa

The Constitution of the Republic of South Africa and the South African Schools Act are primary the main policy frameworks that regulate the education system in South Africa. These two policies are analysed below with a specific focus on access to education. Other policies such as the language policy flow from these educational policies.

The Constitution of the Republic of South Africa

The Constitution of the Republic of South Africa, Act 106 of 1996 is the supreme law of the land. This act makes access to education a fundamental human right issue. Section 29 (1) (a), of the Constitution states that everyone has the right to basic education including further education. Basic education in South Africa includes the foundation phase (grades 1-3), intermediate phase (grades 4-6) and senior phase (grades 7-9). The right to basic education is not restricted to a child only, but is extended to all those in South Africa including adults. The Constitution creates an obligation for the state to progressively make further education available and accessible.

The Department of Basic Education is responsible for the provision of basic education, from Grade R to Grade 12. Further education is provided through further education.

There are three levels of formal education in South Africa, namely, General, further and Higher Education and Training. The policy analysis focuses on policies formulated to enable access of refugee children to General Education and Training.

It needs noted that even though the Constitution makes education a right, it is dependent on resources and school availability. As pointed above, while it is a right, there is often confusion at the point of implementation. It is often not clear whether education is a right for all those in South Africa or for South African citizens only. Refugee and accompanied minors who are of school going age tends to struggle to benefit from this right. External intervention is often required to compel administrators at schools to enrol refugee and migrant children in school.

South African Schools Act

The Government enacted the South African Schools Act, 1996 (Act 84 of 1996) to provide for a uniform system for the organisation, governance and funding of public schools throughout the Republic of South Africa. Section 3 (2), of the South African Schools Act, makes

education compulsory for every learner⁴ between the ages of 7 to 15, covering grades 1 to 9. The act entrusts parents with the responsibility to ensure that the children of designated age group attends school. The Member of Provincial Executive Council is responsible for ensuring that schools have sufficient places to enrol learners of the compulsory education age group.

In order to enforce the compulsory education policy, the act empowers the Head of the Department of Education, to investigate any child who is not attending school, to notify parents to comply with the compulsory provisions of the School Act and to bring criminal charges against parents or anyone who fails to comply with the written notice. Anyone convicted for not complying with the notice from the Head of the Department of Education is liable to a fine or imprisonment of up to six months.

The abovementioned provisions are critical elements of access to education, particularly for refugee and unaccompanied minors. Any refugee child or unaccompanied minor between the ages of 7 and 15 are learners in terms of the Schools Act. They are subject to all the provisions of the Schools Act. The act does not create exemption for any learner of that age group. The compulsory education policy creates a legal obligation for all learners, including refugee and unaccompanied minors, to attend school and it guarantees them access to a school and education. It also compels the state to provide sufficient spaces for all learners of the designated age group in schools in order to ensure that none is turned away. Parents and guardians of all learners, whether they are refugee or asylum seekers, have a legal responsibility to ensure that learners of designated age group attend school. The parents or any other person cannot prevent a refugee or unaccompanied minor from attending school.

While the policy is grand on paper, it is very difficult to implement. Firstly, there are more children, who fall within the compulsory age group who requires enrolment to a school in South Africa than the space available at most public schools. To accommodate this need, i.e. the guaranteed access to education, schools are compelled to increase the total enrolment and therefore the total number of pupils per class. In South Africa there are 50 learners, on average, in a class who are managed by one teacher. So while the need for enrolment is address, it has the effect of compromising the quality of education received by learners. This is despite the “guarantee to access to quality learning (About South Africa: Education, 2009).

It needs to be understood that in general, guaranteed access to education does not automatically translate to quality education. Secondly, even though the South African government guarantees access to education, there is no guarantee access to education by refugee children. Schools do not have proper mechanism and understanding of a refugee child and situation. Refugee family and their children flee their countries without taking

⁴ The act defines a learner as “any person receiving education or obliged to receive education” in terms of the South African School Act.

and/or obtaining school transfer papers. South African schools require transfer papers in order to enrol a child. Children without the necessary transfer papers are excluded or required to start in lower classes. This inhibits the refugee children's rights to access education in South Africa.

Secondly, while the constitution makes educational fundamental human right for a child and the policy makes it compulsory, in reality refugee children are seldom treated equally given the right to education, and they seldom benefit from education being compulsory. Refugee children arriving in South Africa after the school terms has started are seldom admitted to schools. They have to wait for the new school year and are not offered any bridging programs to orient them to new schooling system. No educational assistance is provided to the learner while they wait for the start of the new school calendar year. There is also no guarantee that the refugee and migrant child will be enrolled in the nearest school the following year. Refugee children compete for space with local children and some schools prioritise South African children. Schools enrol local children first, and thereafter Refugee children only if there is space available. As a result, refugee parents are compelled to travel longer distances to find schools that are prepared to enrol their children. These schools are often located far from their homes. If the child is enrolled, the parent is responsible for all the transport costs of the child to and from school. This inhibits a refugee child from enjoying the fundamental right to education and benefiting from it being compulsory.

In order to address the needs of the refugee child, and ensure that they benefit from education being a fundamental human right, and from education being compulsory, it is recommended that a policy that caters for the needs of refugee children and unaccompanied minors be formulated. The policy should compel schools to enrol children, even though the school calendar year has already started. Alternatively, the Department of Basic Education should provide a bridging program for these learners so that they are oriented and properly integrated into South Africans educational system. In the event that the child is unable to enrol at the school nearer to their homes, the policy should empower or mandate the Department of Basic Education to provide financial support to fund the transport needs of Refugee learners enrolled far from their homes.

Language Policy

The National Language Policy for schools in South Africa is based on three main tenets. Firstly, it states that every child has the right to be taught in the language of their choice (South African Consulate General, 1997). To give effect to this right, the language policy requires learners and parents to indicate their choice of language during the registration process. Schools are required to outline how they will be able to give effect to the language choices of learners. The language choice for learners and parents is restricted only to the eleven official languages of South Africa. French, Swahili, Kikuyu etc. are excluded from the languages that parents and learners can choose. Many schools in Gauteng, particularly in suburban schools offer English as the language of choice.

Secondly, The Department of Basic Education requires schools to promote multilingualism. There is therefore an expectation that each school will in addition to the language of choice, offer another official language. A learner will therefore be expected to be able to speak at least two of the eleven official languages. In most instances, the second language offered in most schools is Afrikaans. School governing bodies determine the language policies of schools.

Thirdly, the language policy stipulates that language cannot be used as a barrier to education. Thus, schools are required to enrol any child even if they do not speak or understand the language of choice used in a school and the second language. There is however, no obligation on the school to provide bridging programs to the child to bring them to an acceptable level of language competency as his/her peers.

The last policy tenet is important in that it clarifies important policy tenet and the status of language in education. While it removes language as a barrier to enrolment in any school, it creates problems for refugee and migrant children. The majority of refugee and migrant children do not speak English, Afrikaans or any of the local vernacular languages. South African public schools language usage is predominantly restricted to the 11 official languages which refugee and migrant children do not speak. Other than learning South African Official Language at school, refugee and migrant children do not have any other place to learn it. They are not offered support programs to at least bring them to acceptable levels as their peers. Instead of doing this, schools are inclined to require refugee and migrant learners to start at lower grades. This approach has many possible outcomes. The learner will stay longer in school than the required age group and are likely to quit school before they complete it.

Learners are expected to become competent in two official languages. Learners that are found not competent in the two languages, following the official assessment, will not be allowed to proceed to the next grade. They have to remain in the same grade up until they are deemed competent.

Current responses to language needs for refugee and migrant children have created barriers making education inaccessible. While language is not used to justify non-enrolment of a refugee child, the approach taken results in the child finding the school inaccessible leading them to quitting.

It is recommended that the Department of Education should consider providing differentiated responses to enable the Refugee and Migrant Child to have access to education. The schools can keep the learner in the appropriate grade and offer additional English Lessons. Alternatively, for the purpose of gaining language competency, the learner can attend lower grades to learn the languages, but appropriate grade to learn other subjects offered by the school.

International best practices

The paragraphs below provide a synopsis of practices adopted by other countries to promote access to education. The discussion is structured according to thematic issues on access to education. The practices are broad and not only focusing on refugee children. This was purposively done to enable South Africa to learn from other practices that have improved access to education.

School Fees

High levels of poverty affect many household, particularly in the Sub-Saharan Africa. Many of these households are unable to meet their basic needs and do not have spare cash to pay school fees. While international policy requires of states to specifically make lower education both free and compulsory, it has not been the case for many public schools in most sub-Saharan Africa. Public schools charge school fees even for primary education. School fees inhibit access to education.

The abolition of school fees, particularly in Burundi, Ethiopia, Ghana, Kenya, Mozambique, Malawi, Nepal and Tanzania is attributed to have increased the number of learners enrolled at primary schools⁵. Total enrolment of children of primary school going age increased to 99.6% in Tanzania following the school fees abolition. In Ethiopia the enrolment increased to 79% of learners by 2008. Abolition of school fees will benefit refugee and unaccompanied children.

South Africa's school fees policy evolves from the South African School Act of 1996. It empowers school governing bodies to charge and determine school fees. The rationale for charging school fees according to the Department of Education is to keep children from middle class households in public schools and to enable these schools to accumulate scarce resources. In theory this will have allowed the state to divert its resources to poor school.

This policy tenet has had two unintended outcomes. Firstly, middle class schools and their Governing bodies have made schooling inaccessible to children who cannot afford to pay the set fees. Secondly, school governing bodies in poor areas also set fees albeit at lower rate compared to middle schools. The resources required by poor schools are more than what the government can afford. School governing bodies of schools located in poor neighbourhoods responded to pressures to raise funds to maintain school by setting fees and requiring school to collect fees. Parents and children who are struggling to meet their school financial obligations are often threatened with expulsion or legal actions.

School fees exemption

In response to above problem, government required schools to adopt school fees exemption policies. This policy is meant to exempt children from paying school fees. However in practice it's applied differently, made inaccessible and schools seldom disclosed to financially struggling parents. There are instances where schools will ask parents,

⁵ Ibid

specifically refugee parents, to come work at school. Hours worked are credited towards the payment of their children school fees. In some instances schools simply provide partial exemption to school fees. These parents are required to pay for the remainder and children are threatened with either exclusion or non-admission the next year. The department has formulated in 2006 regulations regarding exemption from school fees. These regulations were meant to strengthen the obligations of fee-paying schools to grant fee exemptions to parents who qualify (DoE, 2008). The effect has been minimal. Many refugee parents still complain that they still receive legal and exclusion threats for failure to pay school fees. This is 4 years after the formulation of these regulations. This signals that schools are either not implementing or are not complying with these regulations. They are interested to collect the fees.

Some Refugee parents were informed by RCP about the exemption fee when they were at the point of removing their children from these schools. It points to a need to educate poor parents about the existence of the exemption policy. Schools management also requires to be pressured externally by organisations that know these policies to enable children to remain in school by exempting them from paying fees.

In light of the fact that refugee parents are in a dire financial circumstances, it is recommended that the department of education should declare a special exemption for refugee parents. Because of their socio-economic conditions, the majority are unemployed and are therefore unable to pay school fees. Their total number is very low in schools, and the exemption is not likely to cause the school to be bankrupt. It will however increase access to education for refugee parents.

No fee Schools

In order to address the financial burden faced by poor parents, the Department of Education has declared some schools no-fees schools. These schools are not allowed to charge children a school fee. Schools that have been declared no-fees Schools are located in the poorest neighbourhood. No fee schools are known to increase the enrolment of students. Some Refugee parents have benefited from this. However, the majority of refugees and asylum seekers are not residing in the poorest areas. Some migrated to safer middle class neighbourhood following the xenophobia related violence. The majority of children of refugee parents are not benefiting from the no-fee schools. The Department of Education should consider declaring schools that are predominantly attended by refugee children no-fee schools. This is likely to increase enrolment and reduce the drop-out rate of children born from refugee and asylum seeking parents.

Nutritional Needs

Lack of nutrition is one of the factors that inhibit access to education. Lack of nutrition is caused by the fact that learners are from poor families that are unable to provide food for the children. Often children had to go to school on a hungry stomach and are unable to concentrate in class because of hunger pains. The South African Department of Education initiated the school feeding scheme. The school feeding scheme provides food, at least lunch

to children. The type and nature of food provided vary from school to school and it is currently not clear whether there is a set menu for children. The Department of Education reported that by March 2009, the National School Nutritional Program was supporting approximately 5.6 million of the 12.6 million learners daily (About South Africa: Education). The nutritional program caters for the needs of all children in school including refugee and unaccompanied minors. It is a valuable program and needs to be supported continuously so that it's able to cater for the nutritional needs of children.

Lack of Learning Infrastructure

Insufficient teachers and classroom space are infrastructural problems that inhibit access to education. The United Nations estimates that Sub-Saharan Africa needs to double its number of teachers and classrooms in order to achieve the goals of universal Primary Education. Currently it is estimated that average class sizes in urban developing countries is made out of between 80 and 90 learners. The class size inhibits proper learning and is one of the factors that encourage children to drop out before completing either primary or secondary education. In order to respond to this challenge, countries are now using distance learning that is supported by technology in order to achieve economies of scales and increase total number of students supported through existing system and infrastructure.

Discrimination

Discrimination is one of the means used to deny access to children. Mostly, minority children tend to suffer from discrimination in society and school which socially excludes them from social amenities, such as schools. In South Africa xenophobia has been used as a tool to socially exclude refugee and migrants in general. Children were not immune to this and during the most turbulent times, refugee and migrant children stayed away from school. Their families were subject to high levels violence.

Distance as a Barrier to Education

South Africa primary and secondary schools are often located far from the residential address of the minor child. Children are often required to commute long distances to and from school. Statistics South Africa, reported in that overall, 20% of learners attending primary schools in 2004 and 2005 reported that their school was far from their residential homes. 33% and 34% of secondary school reported that their secondary school was far from their homes. The detailed provincial breakdown is tabulated below.

Table 2: Learners Reporting Distance to a Learning Facility

Province	Primary Schools		Secondary Schools	
	2004	2005	2004	2005
Gauteng Province	10%	12%	14%	15%
Limpopo Province	18%	15%	33%	35%

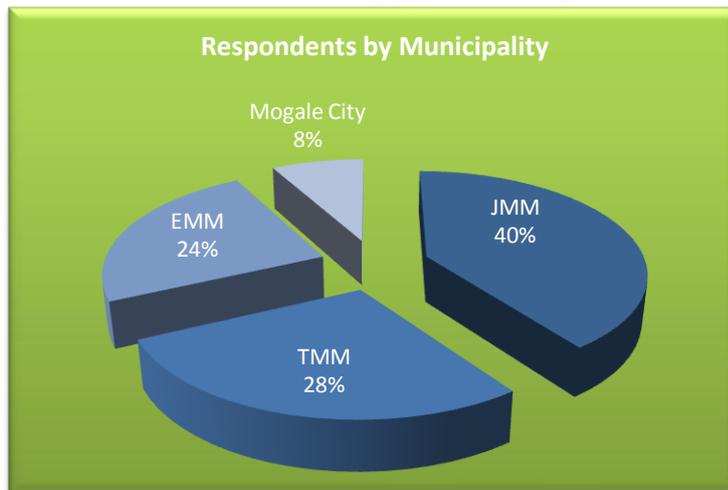
The location of a learning facility in relation to a learner's home can either inhibit or enable the learner to have access to education.

Learning facilities that are located far from the learner creates psychological and physiological barriers. From a psychological level, Younger learners, and girls in particular, are vulnerable to victimisation if they have to travel long distances to and from school. Children who commute long distances arrive tired at school and are therefore not in a physical condition to concentrate. Access is hindered by the location of schools.

Refugee children are often required to commute long distances to and from school. The commuting is caused by the fact that many are unable to enrol at schools closer to them, do not speak the local language.

FINDINGS FROM EDUCATORS SURVEY

As part of the process to understand the concept of access to education, RCP interviewed 25 educators from different schools in Gauteng Province. The respondents are from schools located in four local municipalities, namely Johannesburg Metropolitan Municipality (40%),

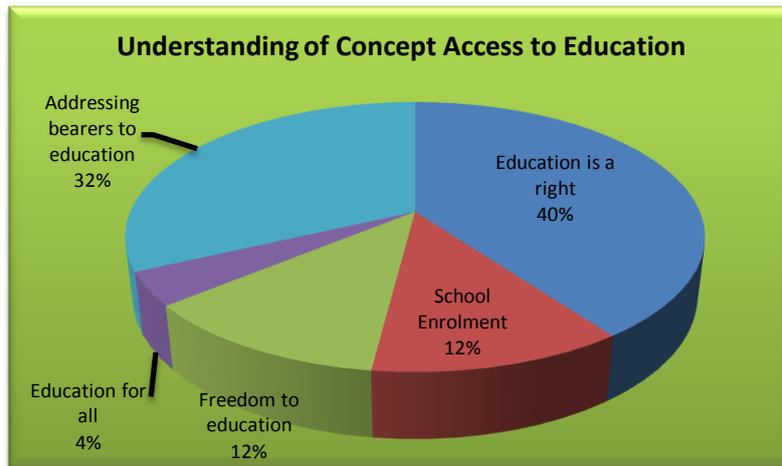


Tshwane Metropolitan Municipality (28%), Ekurhuleni (24%) and Mogale City. They metropolitan municipalities were purposively selected for because they can be reached with ease and the majority of refugees and migrant children attend public schools located at these municipalities. Mogale City was selected to understand whether there will be generic policies that

will be in place to cater for the needs of refugee and migrant children respondents were strictly educators. 71% of the respondents teach at primary school and the remainder are at secondary school.

Understanding the concept access to education

Respondents were first asked to explain their understanding of the concept "access to education". The responses varied extensively and indicate that the concept is understood to mean different things to different educators. The lack of a uniform definition and understanding of the concept could negatively affect responses to problems and challenges relating to access to education. The responses were grouped into 6 themes. The themes are graphically illustrated below.



Respondents understood the concept access to education to mean as follows:

- To 40% of respondents, the concept means education is a human fundamental right. It is not a benefit.
- To 32% of respondents the concept means addressing all bearers to education. Stumbling blocks that needs to be removed includes school fees, discrimination on the basis of gender and race, and provision of information.
- To 24% the concept means both freedom to education and actual school enrolment. The latter includes school attendance.
- 4% understood the concept as meaning education for all.

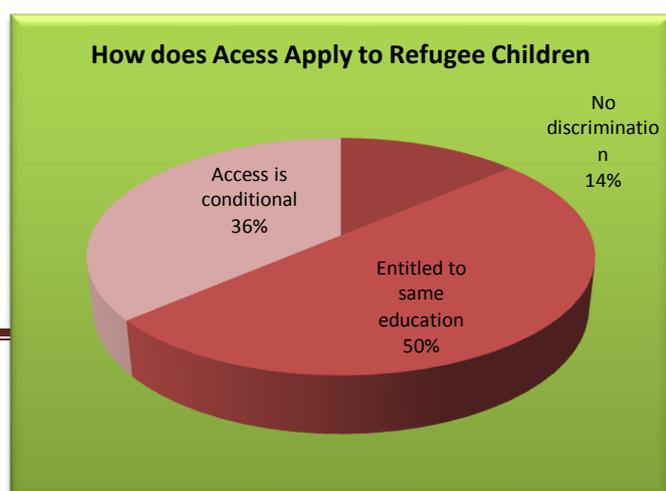
While these understanding vary, they do not necessarily contradict each other. The Constitution of the Republic of South Africa makes both basic and further education a right to be enjoyed by everyone. Making education a right enables access to education. Barriers to education may make a mockery of education being prescribed as a human rights issue and may prevent the full enjoyment of the right. Lastly, the removal of barriers without the enrolment of learners, education will remain elusive to all. These concepts are complementary.

Access to education should definitely be about the removal of all barriers so that all those eligible to get and enjoy the right to education can do so. Issues such as distance, disability and inaccessible curriculum, school fees, early drop out are factors which are known to make education inaccessible. Access to education does not necessarily mean access to a school. Learners can obtain formal education outside of the formal school. Schools are however the predominant conduit for basic education in South Africa. Thus school enrolment is a critical factor in accessing education.

Implication for Concept

Educators were asked to explain how the concept access to education applies to refugee and migrant children. This question aimed to document views of educators, they are at the coal face of the education policy.

50% of the educators pointed out that refugee and migrant children were



Access to Education:

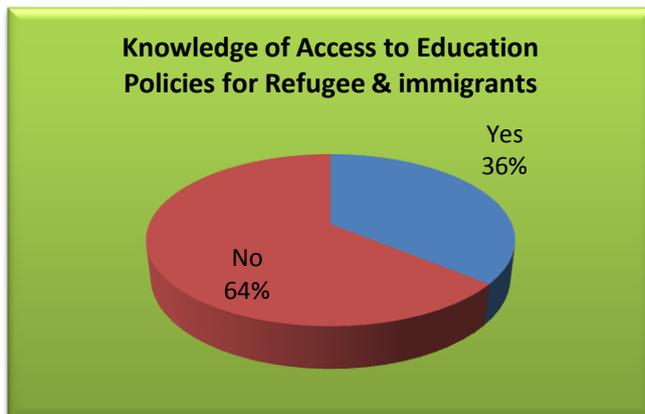
entitled to the same education as South African children. 14% stated that in addition to being entitled to education, refugee and migrant children cannot be discriminated against.

36% of respondent made access to education of refugee and migrants conditional to either correct documents, legality of refugee and migrants in South Africa, birth etc.

All respondents were of the view that refugee and migrant children are entitled to education. Others felt that the entitlement can be provided with conditions, mainly legality and documents, while others were of the view that the education entitlement should be provided without any form of discrimination.

Knowledge of Access to Education Policies: Applicable to Refugees

Educators were asked whether they were aware of any policy that was formulated to enhance refugee and migrant children's access to education in South Africa. 64% of the educators stated that they were not aware of such policies. The 36% whose response stated that they are aware of policies to enhance refugee children's access to education could not provide the details of the policies. The majority simply referred to the school admission policy. This policy is applicable to all children irrespective of their status in South Africa. It is therefore not there to specifically target refugee children.



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It can therefore be safely assumed that the South African government does not have a policy aimed at enhancing refugee children access to education. Provisions

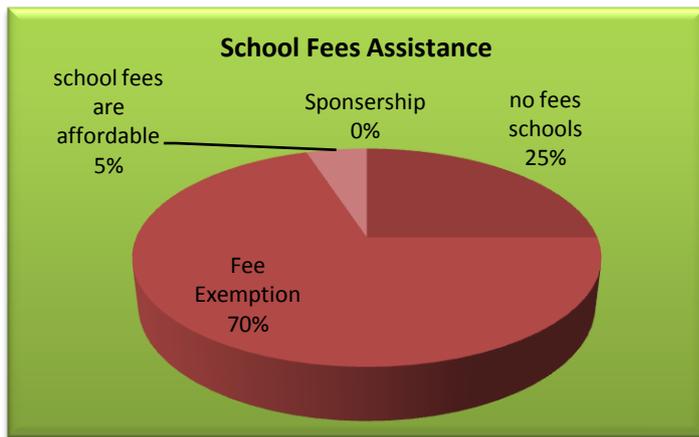
of existing policies do require schools not to discriminate against any child. However, they do not address specific needs of refugee and migrant children such as language and lack of documents. These are issues that negatively affect refugee and migrant children access to education.

School Integration Program for Refugee and Migrant Learners

Educators were asked to explain how the Department and schools were assisting refugee and migrant children to integrate in school. Lack of integration tends to lead to social exclusion a factor leading most learner to discontinue their education. Almost all the respondents were unanimous that there are no programs in place at schools to either orientate or integrate refugee children in schools. Four respondents indicated that in addition to lack of integration, refugee learners are struggling to understand the medium of instruction used in schools. There are no program programs that are available to assist refugee learners with this problem.

Policies in Place to Assist with School Fees, Uniforms and Transport

The majority of refugee and migrant children are from indigent families. Many of the parents are unemployed and do not receive social grants. As a result many of them struggle to pay school fees, purchase school uniforms and to pay transport for children who may need transport. Educators were asked if they know of any policies to assist refugee and migrant learners with school fees, uniforms and transport.



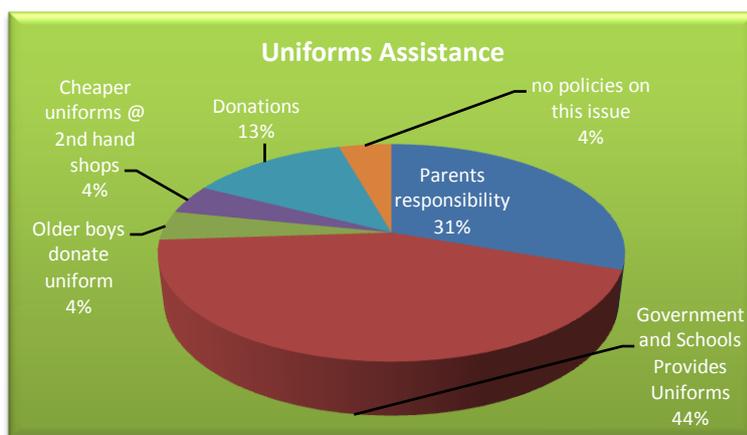
School Fees

Respondents were asked about financial assistance available to refugee and immigrants who cannot afford to pay school fees. 70% of the respondents were of the opinion that schools have a fees exemption policy from which any child from a poor household can benefit from. The parents will need to apply

directly from the school to be exempted from paying fees. 25% of the respondents indicated that their school is classified as a no fee school. These are schools that do not require learners to pay school fees. The Government provides for all the financial needs of these schools. As fees exemption schools, they are open to all learners including refugee children. 5% believed that the school was charging a small amount, less than R100 per annum. Parents, including those from poor household were expected to have R100.

School Uniforms

Respondents are asked about the assistance available for needy children who may not afford to purchase a school uniform. School uniform is compulsory in public schools and they are not cheap. The responses to the questions are as follows:



➤ 44% of the educators indicated that government and schools provide uniforms to needy students.

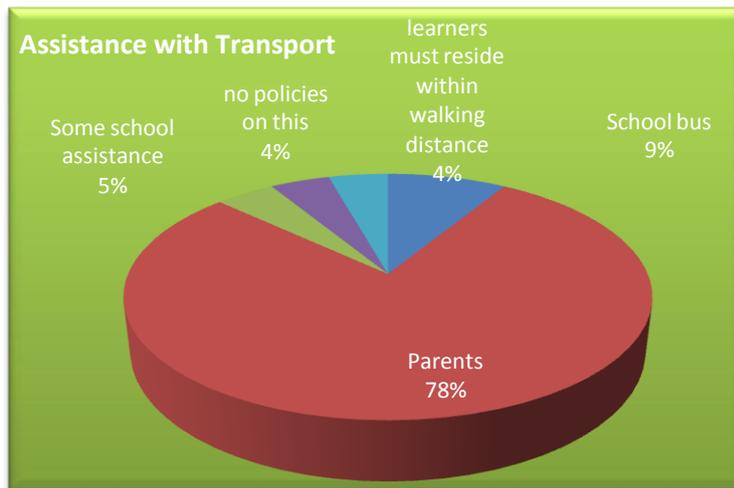
➤ 31% are of the view that purchasing uniform is the responsibility of the parent.

➤ 13% indicated that some uniforms are donated.

The responses clearly stipulate that schools utilise different approaches to provide uniforms to needy children. Migrant and refugee children from indigent homes are also included as beneficiaries of practices used at schools.

Assistance with Transport

Transport to and from school is one of the factors known to inhibit access to education. Educators were asked about assistance that schools provide to learners from indigent households, including migrants and refugees.



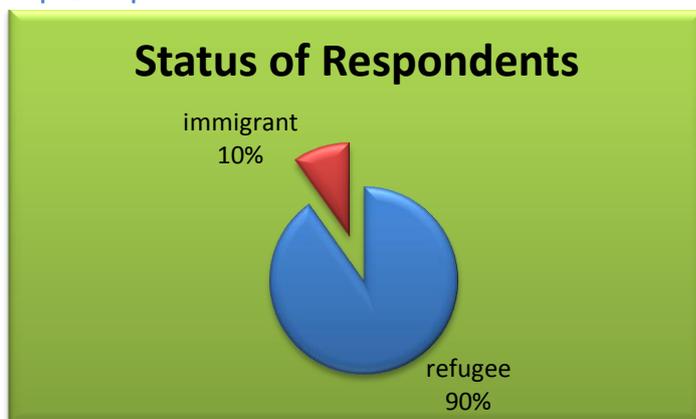
78% of the respondent indicated that it is the responsibility of the parent to get children to and from school. They must pay for all transport costs. Some schools (9%) have buses that ferry learners to and from school.

Parent and schools should be encouraged to enrol learners at schools located within walking distance of the residential home of the learner. The approach will help to reduce transport costs. Alternatively, Local Municipalities should exempt learners from paying bus fair in Municipal Buses. This is a practice followed in most international countries.

Findings from Interviews with Parents and Learners

This part of the report discusses findings from interviews conducted with 50 parents and learners who are refugee and immigrants. The interviews were conducted to understand the factors inhibiting the learners’ access to education. In order to conduct the interview, RCP prepared a structured questionnaire and refugee parents and learners were randomly selected.

Graph 1: Respondents Status



The minimum criteria for selecting a respondent was that s/he must be a refugee with a child enrolled at a public school in Gauteng or s/he must be learner currently enrolled at a public school in Gauteng Province.

90% of the respondents are refugees and 10% are immigrants. 70% of the respondents have asylum papers and 20% are still awaiting their Department of Home Affairs to finalise their status in South Africa.

2% have refugee Identity documents and 8% are using passports.

The table below lists the schools at which the parent respondents have either enrolled their children. It also lists the schools attended by some of the learners. Five respondents opted not to give the names of their schools. The majority of the learners were enrolled at Berea (15%), Bertrams (10%) and Yeoville (10%). The remainder were unevenly distributed in the different schools as per table one.

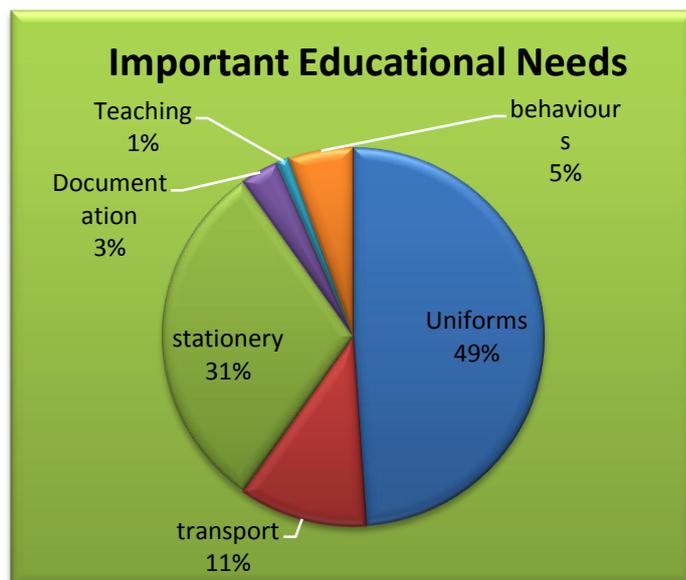
Table 3: Name of School and Total Respondents

Name of School	Total Respondents
Athlone Boys High School	2
Athlone Girls High School	3
Barnato School	3
Berea Primary School	7
Bertrams Junior Primary School	5
East Gate primary School	1
Fairview Junior School	1
Johannesburg Polytechnic School	1
Jules High School	2
Kensington High School	1
N/A	5
Observatory East Primary School	3
Parktown High School	2
Queens High School	2
Sir Edward Primary School	1
Troyeville Boys School	1
Yeoville Community School	5
Yeoville Boys School	3

Learners from grades 1 – 12 are represented in this study. The younger learners’ views are represented by their parents, while the older learners responded directly to the questions asked.

The majority of the learners were, at the time of the study, enrolled at grades four and have been at the same school for three years (see table 2 below). Six of the 50 respondents did not specify how long they have been registered at the same school.

The majority of the learners (75%) were enrolled in Public Schools with fewer refugee learners. The majority of learners in these schools are South African.



Important Needs

Respondents were asked to indicate their important educational needs. They were given six options to choose from. 49% of the respondents listed uniforms as the most important needs. 31% listed stationery as their most important needs. 11% require transport in order to access schools. These are three most important factors that inhibit access to education.

School Uniforms

A school uniform is compulsory in all public schools in Gauteng Province and they are very expensive and are not subsidised by the schooling authorities. Parents are required to purchase the correct uniforms, normally at a stipulated shop. Many schools do not have second hand clothing shops where cheaper uniforms can be purchased. Schools insist that learners must wear proper uniforms. School normally enforce this rule and learners who fail to comply with school uniform policy are disciplined. Also children who are unable to afford to purchase proper school uniforms run the risk of being easily identifiable amongst other learners and may be mocked by other fellow learners. Refugee and Immigrant Parents, some of whom are unemployed, are required to find money to purchase the uniforms without assistance. Uniforms appear to be an inhibitor to access to education. Alternative mechanism is required to enable refugee and immigrant learners to have access to uniforms which is a bearer to education.

Stationery

Stationery is the second most important need for learners. Stationery includes prescribed books; writing and colouring pens; books for class work, homework, tests etc. Many public schools provide stationery at the beginning of the year. Parents of the learners are required to purchase supplementary learning materials, and to replenishing or replacement stationery during the year.

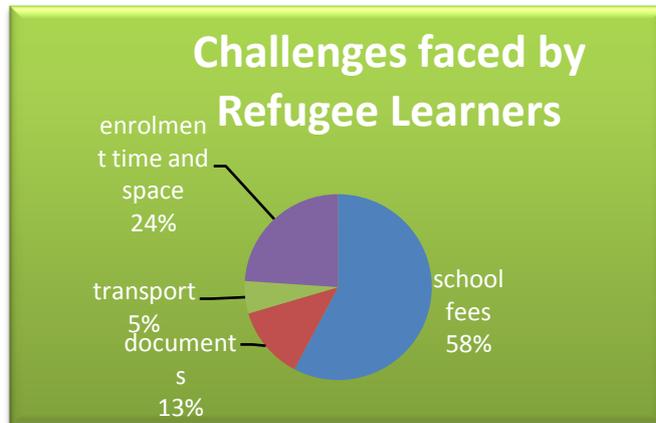
Without stationery, the learner will not be able to read, write school work, homework and even tests. Stationery is the most important input for learning. Without it there cannot be learning. Many refugee parents, like some South African Parents, are unemployed and are therefore unable to purchase stationery for their children.

Transport

Some learners are enrolled in schools far from their homes. Schools located within walking distances to the homes of these learners were full at the time of enrolment. These learners use public transport to and from school. These parents are required to find the financial resources to pay for their kids' transport. School children pay the full fair in all public transport and are not subsidised by the providers of public transports in South Africa. It is recommended that the public transport providers should subsidise the transport needs of learners. In many other international countries, learners do not pay fares in public transport. It is recommended that a similar approach be adopted in Gauteng Province, especially for areas where government is not providing transport for learners.

General Challenges with regards to Access to Education

Respondents were asked to select, from the options given, the challenges relating to access to education that they were facing. 58% of the respondents indicated that the paying of school fees was the biggest challenge. This is followed by the enrolment time and space, documents and transport.



School Fees

The finding suggests that refugee and immigrant learners are struggling to pay school fees. It is likely that those refugee and immigrants that are struggling to pay school fees are either unemployed or are unable to earn

enough to meet the financial responsibilities of their families. While there are policies that inhibits schools from excluding children who are unable to pay school fees, schools are known to threaten children who are struggling to meet their financial obligations with exclusion and forwarding unpaid accounts to debt collectors. School governing bodies are responsible for determining school fees and set guidelines for fees full or partial fees exemptions. The fees exemption policy is not highly publicised and is a closely kept secret. Schools seldom make parents aware of this policy and its benefits are not automatically granted to learners from financially needy families. Other school, instead of fees exemption, requires parents to work stipulated hours at the school. Income earned from hours worked is credited towards settling outstanding fees. The motivation for keeping and administering the fees exemption policy in secret is understood. The policy can be open to abuse by financially well off parents who will apply for school exemption. If it's not properly administered, the policy may deprive school of revenue. It therefore needs to be justly administered.

The South African Government has embarked on a process to increase the number of no fees schools. Government caters for all the financial needs of the school and the school is prohibited from charging school fees. No fees schools provide education to learners from poor households. The increase in the number of no fee schools is likely to meet the needs of refugee and immigrant parents.

Enrolment time and space

South African schools normally enrol children in October of the previous year and at the start of the first school term, in January. Often the available space is given on the first come basis. Many schools are reluctant to take enrol new learners after the end of the first and second term. This often creates challenges for refugee parents in particular. They do not plan, collect required schooling information prior to leaving their country of origin. They normally flee their country of origin when they lives and fundamental human rights are threatened.

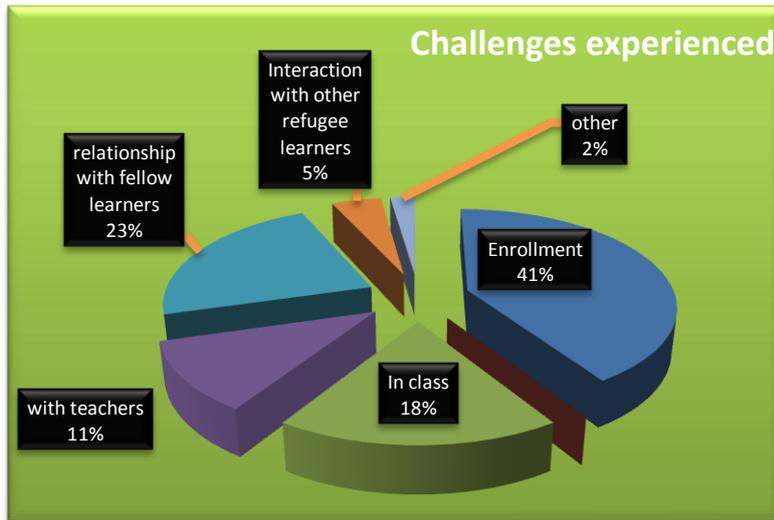
This happens anytime, including at the end of the first school calendar. By the time they get into South Africa they will normally find that schools are not enrolling any learners.

The total numbers of learners that can be accommodated within a class are limited. In order to meet the demands for enrolment, most public schools enrol learners in excess of their allowed carrying capacity and are therefore overcrowded. These schools will often be reluctant to enrol additional learners when they are overcrowded.

The South African government needs to formulate special measures to enable refugee learners not to waste time at home.

Specific need Challenges Personally Experienced

Respondents were asked to select from a given list the specific challenges they personally experienced as part of the process to access education. School fees, stationery and school uniforms were excluded from the analysis. These three factors were excluded because they were mentioned above. The intention is to understand other factors impacting negatively on



refugee and immigrant children’s access to education. The main challenges are enrolment, relationship with South African learners, problems in class and with teachers.

Enrolment

41% cited enrolment as the biggest challenge impacting negatively on their access to education. This challenge

should stem from the fact that the majority of refugees and immigrants:

- ✚ Do not speak any of the South African official languages which are medium of instruction in schools.
- ✚ Do not have the required school transfer certificates which most schools requires in order to register a learner and place them at the appropriate grade.

The aforementioned factors make enrolment difficult for many refugee and migrant learners.

Relationship with other learners

23% of respondents cited that the relationship between them and other South African learners affect their right of access to education. A small proportion of respondents cited bullying, language and being refugees as the factors negatively affecting their relationship with fellow learners. It is likely that the majority of refugee children are discriminated against at school and may be subjected to low levels form of xenophobia related violence.

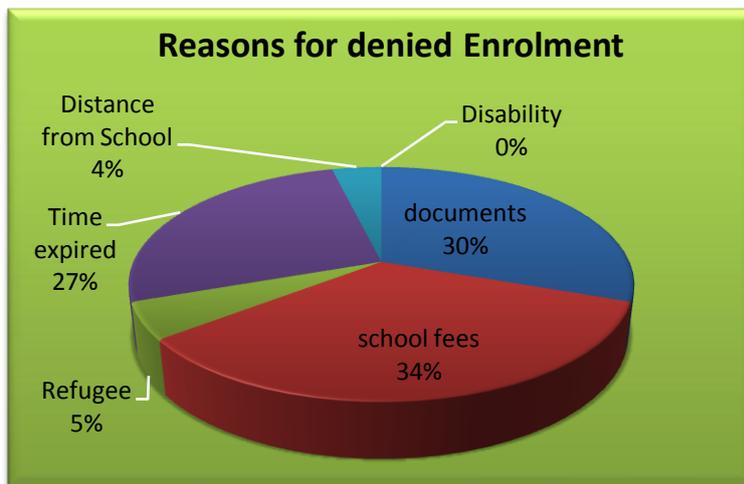
South African schools do not have programmes in place to integrate refugee into school life. South African born learners are also not taught about the socio-political condition that compels individuals to escape their country to protect their lives creating refugees.

Problems in Class and Teachers

18% and 11% of respondent cited that they have problems in class and with teachers. 62% of the learners experience problems in class and with teachers cited language as the main problem. They are struggling with the medium of instructions which is predominantly English. Public schools should consider providing additional language classes for those learners who are struggling with the medium of instruction.

Refugee Child Denied Enrolment in School

The last question sought to understand whether respondents knew a refugee child whose application for enrolment in a school was unsuccessful and the reasons for the decision. 88%



of the respondents indicated that they do know of a child who was not admitted by schools.

Inability to afford the payment of school fees, lack of appropriate documentations and permit time expiry are the main reasons for the denial of enrolment.

School fees can be addressed through existing policies and no

fee schools program of the government. However, even if the problem of school fees is addressed, the lack of transfer documents that proves the level of education of the learner is a problem. Schools require the transfer documents to enrol and to appropriately place a learner at a specific grade. Other key documents are birth certificates that indicate the age of the learner. Most refugees left their countries of origin abruptly to save themselves and their family. They did not plan to leave and therefore make time to collect the documents. In some countries that were at war, the schooling infrastructure collapsed, and no one was available to issue transfer documents. Without the required documentation schools do not have proof that the child was in school and their level of education. Schools are also not permitted to use admission tests as the basis for enrolment or denial. Even if the tests are administered, many refugee learners from Francophone and Polyphone countries may not understand the medium of instructions used in schools. Inability to read and respond in the medium of instruction may disadvantage the learner. They are likely to place the learner at a lower grade if they do not have the necessary proof.

Recommendations

Recommendations:

The inability to afford to pay for school uniforms, stationery and transport is not contributing towards the achievement of the objectives of the compulsory education policy. While education is compulsory, factors essential to the fulfilment of this policy requires funding which some parents have reported that they are unable to afford. It is recommended that financial assistance be provided to indigent parents including refugees and immigrant parents. The assistance will benefit learners and not the parents. It will increase the pool of available human capital. Specific recommendations with regards to the three factors are listed below:

Recommendation 1: Uniforms: Funds to assist Refugee and immigrant learners to purchase school uniforms should be set aside. Schools should be encouraged to form second hand uniform shops to enable parents to purchase cheaper uniforms.

Recommendation 2: Stationery: Special stationery assistance should be given to learners from indigent households, especially from refugee and migrant households. Government should provide additional schooling stationery to replenish and supplement existing materials. In that way, learners will have access to stationery as and when required.

Recommendation 3: Transport: Municipalities are normally responsible for the provision of rapid public transport in Gauteng. It is recommended that Learners who can produce their cards should be allowed onto public transport at defined hours at no costs.

It should be noted that the provision of the above should not be dependent on donations. Donations should supplement materials already provided by the government.

Recommendation 4: School Fees: It is recommended that schools should make parents, especially those struggling to meet financial obligations, aware of the existence of the fees exemption policies. They should also assist financially struggling families to apply for the exemptions.

Recommendation 5: Orientation of New Learners: Schools must establish special program to orientate new learners. This program can have specific topics dedicated to refugee learners. Schools can utilise organisations that work with refugees to design and even deliver the orientation learning program.

Recommendation 6: Awareness about Refugees in Schools: It is important that schools should utilise social and life skills learning programs to educate and improve awareness of South African learners about the factors that create refugees and the socio-economic conditions that refugees often find themselves in countries such as South Africa.

Recommendation 7: Language: Public School should provide additional language classes for learners who are struggling with the medium of instruction.

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International Legal Instruments

United Nations Conventions on the Rights of the Child

Millennium Development Goals

African Charter on the Rights and Welfare of the Child

National Legal Instruments

The Constitution of the Republic of South Africa Act number 106 of 1996

The South African Schools Act number 84 of 1996