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Children Moving Across Borders: Equitable Access to Education for Undocumented Migrants in South Africa

A doctoral thesis

By

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A thesis submitted to the Wits School of Education, Faculty of Humanities, University of the Witwatersrand in fulfilment of the requirements for the degree of Doctor of Philosophy

Johannesburg, September 2023

Declaration

I declare that this doctoral thesis is my own unaided work. It is being submitted as a fulfilment for the Degree of Doctor of Philosophy at the University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree, part degree, or examination at this or any other university.

Sarah Sayah

Sarah E. Blessed-Sayah 8th day of September 2023

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Dedication

I dedicate this doctoral thesis to all the undocumented migrant children who reside in different countries across the world, and especially in South Africa.

May you find peace and hope!

The Bible says:
"Speak up for the people who have no voice,
For the rights of all the misfits [defenceless].
Speak out for justice!
Stand up for the poor and destitute!"
(Proverbs 31, Verses 8-9, Message [MSG] Translation)

Acknowledgements

From the day I decided to enrol for a doctoral degree, I knew community was going to be a big part of my studying, researching, writing, and presenting. Here, I acknowledge the people who supported me in both big and small ways as I journeyed through my PhD study.

First, I am immensely grateful to my Lord and Saviour Jesus Christ for the grace to start and complete my PhD. For I know who I have believed in, and I am persuaded that Jesus is able to keep that which I have committed unto Him against that day! Now to Jesus who is able to do imaginably more than all I ask or imagine… according to His power that is at work within me!!

Next, I am thankful to my supervisor, Dr Dominic Griffiths. To say that Dr Griffiths supported me would not quantify what he did for me throughout my study. To begin, his attention to detail in terms of writing helped me refine my own writing. Also, he taught me that PhD supervision does not equal a 'pot filled with sour soup'. With continued belief in me, Dr Griffiths made sure that I learned and became a confident writer and researcher without any reservations. He was also a mentor and encouraged me through regular meetings and sharing of ideas about my research. To say the least, Dr Griffiths proved to be a seasoned researcher and supervisor. I am proud to have been supervised by him!

I am also thankful for my family: my dad, mum, siblings (Opu, Ibo, Degirl, Oyil, Oghare, and Izu), nieces – Ruru and Mega. From the day I started my PhD journey till the day I submitted, you were all there for me, encouraging me and asking me how I was doing and at what stage my work was at different times. To my parents, thank you for all the prayers and for cheering me all the way. My nieces, seeing your pictures always melted my heart, and thinking about you made me write faster! I love you all.

I acknowledge the management and staff of the Roman Catholic Christian Mission NGO that works steadfastly in Johannesburg, South Africa to bridge the educational gap for undocumented migrant children and their parents within the country. I am also thankful to all those who participated in my study.

Before and along the way, I met amazing people who became friends. Thank you to Limakatso Seeko for all the mini travels; those kept me going. Thank you to Dr Wacango Kimani (for

driving me home, being a good office neighbour, and being one of the critical readers of my work); Larry Onokpite (for encouraging me); Tobi Dayo-Olupona (for friendship). I am also grateful to Ameeta Merhoye for being a friend; I appreciate the homemade breakfasts, lunches, and dinners. Thank you for also listening to all my 'stories' even when they did not concern you. I also thank Janet Ditlopo for encouraging me. Many thanks too to Assistant Prof Edna Bosire for showing me the perks of qualitative research. I am grateful to Dr Beatrice Akala for being one of my critical readers and being my big sister. Thank you too, Rashad Bagus; your belief in me means a lot!

I am also thankful for the Human Development and Capability Association (HDCA). Beyond providing a platform to engage with capability scholars, the HDCA gave me the opportunity to meet other PhD candidates who encouraged me all the way.

I acknowledge the role of the Wits School of Education Writing Centre throughout my PhD journey. Thank you to Prof Laura Dison for all the opportunities to present in, and outside, of Wits University; thank you to Ms Esme Redfern for always checking on and encouraging me.

Thank you to Ms Cathrine Monyane and Ms Matsie Mabeta for the administrative work that you did to ensure my journey was smooth.

Preface

The drive to embark on this study began as a moral hurt. This hurt was birth out of the realisation that children born to undocumented migrants[1] in South Africa consistently experience difficulty in accessing education because of their legal status in the country. As part of my master's degree, I realised the injustice of this lack of access was deeply rooted in issues that required attention but, had been ignored to a large extent.

My master's degree research project explored a psychosocial perspective on school readiness for migrant children. I investigated the psychological and social factors that have an impact on migrant children's readiness for school in the Krugersdorp area of Johannesburg, South Africa. From the interview sessions conducted for that study, I found that there were children who were in more difficult situations in terms of being prepared for formal schooling because of their lack of legal documentation. I realised that beyond the problem of being psychologically and socially prepared to begin formal schooling in South Africa, another significant hardship they experience is gaining access into schools, as they do not have documentation. This difficulty expressed a lack of equitable schooling opportunity for migrant children without the expected paperwork.

The right of these vulnerable undocumented migrant children in South Africa to access education is thus ignored and they are not given a fair chance to do so. This problem of access to education is mostly left unexplained as 'equity and quality for all' in treaties – agreements among several nations – regardless of one's legal status (United Nations, 2015). However, most studies that focus on access do not explain access from the viewpoint of equity (e.g., Gaum, 2017; Vandenhole et al., 2011; Washinyira, 2021; Willie & Mfubu, 2016). Also, in policy documents, legal frameworks and supra-national understandings, the meaning of equity is left open to superficial interpretations because no in-depth explanation of the concept is given in the various documents. Although equity has been silently ignored, its exploration and elaboration would highlight the way forward in terms of ensuring access to education for children without legal documentation in South Africa. This means that understanding what equity represents and how it can be explained within the given context cannot be overemphasised. So, beyond the moral hurt that I felt, I realised that an epistemological gap

[1] Children born to undocumented migrants are also referred to as undocumented migrant children in this study. These are children who were born in South Africa to migrants without legal documentation or any legal status in the country.

exists in finding ways to ensure equitable access to education for undocumented migrant children in South Africa.

This background shaped my interest on how undocumented migrant children can access education in an equitable way in South Africa, and so, the research area for my PhD study. An opportunity to pursue research in this area presented itself as I thought critically about how the issues presented above could be researched. Moreover, being originally from the Western region of Africa, I knew I had to forge ahead in thinking about ways through which these group of children can be granted equitable access to education, regardless of their legal status in the country. Upon sharing the idea in mind with my supervisor – Dr Dominic Griffiths – it became clearer that this was going to be a worthwhile study.

This study was timeous because of the rapid increase in the movement of children, from other African countries to South Africa (being a better economy on the continent) that continued to be reported. Also, I became aware of the fact that a problem that compounds the problem of access to education is the uncertainty in the meaning of 'equitable education' as policy documents do not explain, in clear terms, what equity means (Unterhalter, 2009). More so, knowing that South Africa aims to achieve quality and equitable education for all, in alignment with the United Nation's sustainable developmental goal (SDG) 4 (see United Nations [UN], 2015), I knew this study would contribute to the planned development of an integrative framework to ensure equitable access to education for a vulnerable group of children within the country and other similar contexts. I also hope that this study places South Africa at the forefront of upholding the educational rights of all children within the African continent.

Abstract

South Africa is experiencing an increase in intra-regional migration, and the management of migration in the country is increasingly becoming highly securitised. Individuals who move intra-regionally across borders include children – accompanied by parents or caretakers, unaccompanied, and those seeking refuge because of untenable and oppressive circumstances in their home country. Also, individuals who move to South Africa without legal documentation often give birth to children within the State, who are then undocumented. Without documentation, these children cannot access education, which means that achieving their educational right becomes impossible. This happens partly because of legal contradictions that exist in immigration and education policy frameworks. For instance, the Bill of Rights, as contained in Section 29(1)(a) of the Constitution of South Africa (The Constitution of the Republic of South Africa No. 108, 1996), states that *everyone* has the right to basic education, and further states in subsection 2 that the State (being South Africa) is obligated to respect this right. Additionally, the South African Schools Act 84 of 1996 (Republic of South Africa, 1996) states that public schools are obliged to admit children without any form of discrimination on any grounds. However, the Immigration Act No 13 of 2002 states that no 'illegal foreigner' should be allowed on the premises of any learning institution (Republic of South Africa The Presidency, 2002). Thus, the question remains whether undocumented migrant children are included in the 'all' or 'every' because of existing legal contradictions between the Constitution and the Immigration Policy.

Furthermore, the need to consider how the educational right of undocumented migrant children is upheld comes from the evident nationalist view on migration in South Africa, which is projected through government, and in local communities. Although some studies have evaluated the extent to which this right is protected or ensured, and others have considered the barriers to exercising the right to education in South Africa, only a few specifically focus on the right of undocumented migrant children to *equitable* education, and strategies to ensure its fulfilment. Thus, an explanation of *equitable* access to education in South Africa entails developing an approach for understanding undocumented migrant children's educational experience, because this approach would provide a platform to achieve workable ways to ensure the fulfilment of their right to basic education. This research explores the difficulties undocumented migrant children experience in relation to education. Given this, an explanation regarding access to education for undocumented migrant children, from an equity viewpoint in South Africa, is developed. Thus, this study had three major aims. Firstly, to develop an

understanding of equity in relation to access to education. Secondly, to investigate the impact (problems) of migration on undocumented migrant children in relation to equitable access to education in South Africa. Thirdly, to develop strategies that can ensure that these undocumented migrant children have their right to basic education protected in South Africa. Using the capability approach combined with Unterhalter's (2009) description of equity as a three-fold concept as the study's conceptual framework, I argue that ensuring equitable access to education for undocumented migrant children in South Africa requires an integrated approach, which goes beyond top-down strategies and highlights the role of agency. Each finding under the study's objectives serves as evidence that support my overall argument for an integrated approach.

A qualitative research design, from an interpretivist phenomenological lens provided me with the opportunity to carefully interact and bring forward the contextualised lived experiences of undocumented migrant children. This brought about an in-depth description of equitable access to education for them. The study was conducted with an NGO working with undocumented migrant children in the eastern region of the Johannesburg area in the Gauteng province of South Africa. The criterion used for selecting participants was based on the fact that the Project staff members, children who attend the Project, and their parents understand the social environment in which the children reside. They were able to give detailed and in-depth explanations on the impact of migration on their access to education, in an equitable manner. Gauteng Department of Education (GDE) officials who deal with undocumented migrant children, and South African Human Rights Commission (SAHRC) staff who deal with education also understand the impact of migration on these children's chance to equitably access education and were included in the study. A total of 45 participants who were conveniently selected, based on the inclusion criteria, made up the sample size. Nineteen undocumented migrant children (n=19), eleven parents of undocumented migrant children (n=11), and fifteen professionals participated in this study (n=15). I served as the primary tool for data collection while employing different qualitative methods, including individual semi-structured interviews and focus group discussions. The method of data analysis I used for this study included an inductive and deductive approach using the NVivo QSR 12 software. From this method of data analysis, I identified three key themes relating to the specific objectives of the study.

Objective 1:

I found that undocumented migrant children, their parents, and professionals who deal with this group of children perceive equity to mean 'the opportunity to thrive' and 'fairness'. In addition, under the first objective, it was found that equitable access to education is closely linked to being able to attend schools. While the undocumented migrant children described this in terms of the right to attend school and learn educational skills, the parent and professional participants explained it as a fundamental human right which should not be constrained by one's legal status in South Africa. Along this line, it was also revealed that equitable access to education is important for various reasons including access to other services; capabilities, functioning, and the platform to achieve other human rights; and the avoidance of social ills. In all, equitable access to education strongly supports the human dignity of undocumented migrant children.

Objective 2:

Under objective two, I found that the impact of migration to South Africa, as it concerns equitable access to education for undocumented migrant children, was negative. Various problems faced by these children were identified. Firstly, the overarching problem was the lack of documentation which affects the opportunity for undocumented migrant children to equitably access school. This lack of documentation includes the non-issuance of proper birth certificates and so, the non-registration of the births of these children; and the fear of going to renew or apply for permits at the South African Department of Home Affairs (DHA) because of fear of police arrest. Secondly, the problem of continued discrimination, and xenophobic attacks and attitudes was also experienced by undocumented migrant children and their parents. These attacks affected their chance to access education. Thirdly, the lack of access to basic services presented itself as a difficulty which affects the opportunity to access schools, in an equitable way. Fourth, policy gaps, including ambiguities and non-implementation of recent court judgments, also served as problems which affect access to education for these children. Lastly, Covid-19 and the effects of the pandemic further compounded already existing difficulties undocumented migrant children face concerning their equitable access to education.

Objective 3:

The study revealed that strategies to address the problems experienced by undocumented migrant children include government-level, community-level, and individual-level strategies, and a combined, planned approach (integrated approach). Under government-level strategies,

it was found that undocumented migrant children need to be issued birth certificates with identification or registration numbers and so, be appropriately registered at birth. Existing policies about education and immigration also need to be revised, and recent court judgments like the Phakamisa Judgment must be implemented. Also, stakeholders must be trained to ensure the proper implementation, monitoring, and evaluation of policies and recent judgments on equitable access to education for undocumented migrant children. As part of community-level strategies more assistance from NGOs, who bridge educational gaps for undocumented migrant children, would be useful in ensuring undocumented migrant children get educated. Individually, promoting social cohesion between migrants and non-migrants was highlighted. Also, parents of the identified children were encouraged to acquire documentation for their children. However, these different levels, on their own, are not sufficient to ensure equitable access to education. Thus, this study advocates an integrated approach to addressing the problems experienced by undocumented migrant children and their parents, regarding their children's equitable access to education. Supporting this, the professionals interviewed recommend that all levels of society need to work together, in an organised way, to achieve access to education for the identified group of children. Also, the role of the agency and a bottom-up approach to ensuring access to education in an equitable way were highlighted through the integrated approach.

Based on the findings, I argue that the various strategies identified require an integrated approach (for thinking and doing), which includes recognising the agency (individually and collectively) of undocumented migrant children. This approach draws on both top-down and bottom-up approaches with the significant roles of policy implementation, monitoring, and evaluation as well as agency (in both individual and collective forms) highlighted. Important is that this integrated approach (for thinking and doing) will be based on a thorough knowledge of the context. The findings thus serve as supporting empirical evidence for the overall thesis which is that to ensure equitable access to education is achieved, equity must be explained in detail, as a multi-faceted notion, and combined with the capability approach, which allows us to identify and interrogate specific structural limitations.

Key words: *undocumented migrant children; Migration; Capability Approach; Equity; Education; Equitable Access; South Africa*

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List of abbreviations

The following abbreviations have been used throughout this thesis.

Abbreviation	Meaning
AU	African Union
DBE	The South African Department of Basic Education
DHA	The South African Department of Home Affairs
EU	European Union
FGD	Focus Group Discussion
GDE	Gauteng Department of Education
IOM	The International Organisation for Migration
NGOs	Non-Government Organisations
OAU	Organisation of African Union
OECD	Organisation of Economic Cooperation and Development
OHCHR	United Nations Human Rights Office of the High Commissioner
SAHRC	South African Human Rights Commission
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

INTRODUCTION AND BACKGROUND TO THE STUDY

This introduction sets the context for the fundamental issues of this study and the thesis. These issues include what equity means, how we can think about a broad but detailed meaning of equity for the achievement of the right to education for an identified group of children, and what must be done to implement this detailed meaning of equity in educational terms. Along this line, here I include the study's background, statement of the problem and justification for the study. I also highlight the main and specific aims of the study. The research question and sub-questions are also presented, as well as my overall argument. The introduction to the study ends with the definition of key terms used throughout the thesis, as well as an overview of the structure of the thesis.

Context of the study: A general background to the study

Over the past decades, international migration has increased because of economic and political instability, war and insecurity, climate change, and these result in increasing globalisation (Bauman, 2013; BenDavid-Hadar, 2017; de Haas et al., 2020; Guo, 2013; Sime, 2018). Globalisation refers to "the widening, deepening, and speeding up of worldwide interconnectedness in all aspects of contemporary social life" (Held et al., 1999 as cited in de Haas et al., 2020, p. 50). Also, the United Nations (UN), through the Sustainable Developmental Goals (SDGs) for 2030 (United Nations [UN], 2015), recognises the significance of globalisation because of migration across countries. This increase in international migration brings with it the need to provide for those who move across country borders to ensure the advancement of basic human rights. Sub-Saharan African countries are not left out of the increase in international migration (Gonzalez-Garcia et al., 2016; Mlambo, 2018) and intra-regional migration (Bank, 2019). Therefore, the requirement to ensure that the rights of those who move are upheld has become important for human rights (Hart & Brando, 2018; Sen, 1999) in these countries.

South Africa especially is experiencing an increase in this intra-regional migration, and the management of migration within the Southern African region is increasingly becoming securitised (Blessed-Sayah & Griffiths, 2023; Ilgit & Klotz, 2014). Securitisation here refers to speech acts "through which an intersubjective understanding is constructed within a political community to treat something as an existential threat to a valued referent object, and to enable a call for urgent and exceptional measures to deal with the threat" (Buzan & Wæver, 2003, p.

491). These speech acts translate into physical, harmful acts because extreme countermeasures must be taken to 'secure' the political community. It means that in the South African context, through the actionable words spoken by political elites and those in authority (local or national), threats are put forward which depict immigrants as 'problems' and security threats to the well-being of the country. This heightened securitisation occurs regardless of calls for no one to be ignored in relation to human rights (de Gruchy & Vearey, 2021; Manji et al., 2023). Unfortunately, in South Africa, the need to include and absorb 'other nationals' (Bauman, 2013; Rodriguez, 2018) in the general South African economy, and to use already scarce resources including schools and healthcare services, creates a dilemma regarding the rights of *all* to basic amenities. Individuals who move intra-regionally across borders include children – accompanied by parents or caretakers, unaccompanied, and those seeking refuge because of untenable and oppressive circumstances in their home country.

Basic rights, especially for the child, include the rights to non-discrimination on any ground, and education, which is not limited to legal status. These rights are acknowledged by the 4th Sustainable Developmental Goal (SDG) by the UN. The goal is that by 2030 all children will have equal access to education, including children in vulnerable situations, and they should have acquired the skills required to promote global citizenship, and the appreciation of cultural diversity (United Nations [UN], 2015). In keeping with these targets, and other international treaties on the right to education, countries, including South Africa, have also set policies that stipulate the right of *all* children to education. On a global scale, Section 26 of the Universal Declaration of Human Rights declares that everyone has the right to education (United Nations General Assembly, 1948). At a national level, the Bill of Rights, as contained in Section 29(1)(a) of the Constitution of South Africa (The Constitution of the Republic of South Africa No. 108, 1996), states that *everyone* has the right to basic education, and further states in its subsection 2 that the state (being South Africa) is obligated to respect this mentioned right. Additionally, the South African Schools Act 84 of 1996 (Republic of South Africa, 1996) states that public schools are obliged to admit children without any form of discrimination on any grounds.

Despite the above however, the affirmation that a right as fundamental as education be completely universalised, is seemingly impossible (Rodriguez, 2019). This is a problem because legal contradictions exist in policy frameworks regarding the definition of *all* or *every* child(ren), and everyone (as expressed in the Bill of Rights) in terms of the right to education.

The question thus remains whether undocumented migrant children are included in the 'all' or 'every' because in the South African Immigration Policy, they are referred to as 'illegal foreigners' (Republic of South Africa The Presidency, 2002). In the South African context, where contradictions exist between the right to basic education, and being an undocumented child, public service providers get confused regarding the rights of these children, and their access to education (Palmary, 2009). There is limited literature about the equitable access to education of undocumented migrant children in South Africa. This is partly because of historical and political structures and events, including the incessant xenophobic attacks on foreign nationals (Chingwete, 2016) as well as the gatekeeping strategy of schools (Crush & Tawodzera, 2011, 2014). Another problem that compounds the problem of access to education is the uncertainty in the meaning of 'equitable education' as policy documents do not explain, in clear terms, what equity means (Unterhalter, 2009). Part of this study considers the meaning and implementation of equitable access to education, specifically for undocumented migrant children within South Africa. This is based on understanding how 'equitable access to education' is construed, and how the implied meaning results in barriers for migrant children in accessing their right to education.

Statement of the problem and justification

The increase in child migrants (accompanied and unaccompanied, refugee, asylum-seekers) into South Africa has made it important to understand how the rights of these children are protected. For clarity a migrant child is anyone under the age of 18 who has moved across an international border, regardless of the reason for the move and his or her legal status. An undocumented migrant child is thus any child who has moved across international borders into South Africa without legal documentation or any child who was born by migrants in South Africa without legal documentation. The need to consider how the rights of migrant children, especially undocumented ones, are upheld is drawn from the noticeable nationalist understanding on migration within the country, which is projected through the government, and within local communities (Neocosmos, 2010; Palmary, 2018). The nationalist view understands migration as a constant *threat* to the safety of a nation (Gans, 1998; Jordan & Düvell, 2003). However, although some studies (Aglotsson & Klaaren, 2018) have evaluated the extent to which these rights are protected or ensured, and also barriers to the exercise of these rights within South Africa, only a few (Baatjes et al., 2012; Crush & Tawodzera, 2014) focus specifically on the right of undocumented migrant children to *equitable* education, and strategies to ensure its fulfilment. Other studies focus on access to higher education (Ashwin

& Case, 2018), refugee children, and legal frameworks for the contradiction or confusion regarding the establishment of the right to access education (Palmary, 2009). This study focuses on explaining what access to education means through the lens of equity; it also highlights the strategies that can be implemented to address the various problems faced by undocumented migrant children in relation to their equitable access to education.

Furthermore, the definition of 'migrant child' and their rights are often confused with refugee and asylum-seekers within South African (Crush & Peberdy, 2018; Palmary, 2009). This confusion stems from an underlying contradiction in legal frameworks. The South African Schools Act 84 of 1996 (Republic of South Africa, 1996) as well as the Bill of Rights – as contained in the South African Constitution (The Constitution of the Republic of South Africa No. 108, 1996) stipulate the right of *all children* to education. However, these contradict the South African Immigration Act No. 13 of 2002 (Crush & Tawodzera, 2011). The Act states that instruction by a *learning institution* to an 'illegal foreigner' is an offence. Moreover, the Immigration Act No. 13 of 2002 (Republic of South Africa The Presidency, 2002) stipulates that any illegal foreigner found on the premises of a learning institution will be presumed to be receiving instruction and by implication, has committed an offence. Arguably, the use of the term 'illegal' serves to dehumanise others (Nelson & Davis-Wiley, 2018). Although words including 'illegal' and 'undocumented' when used to refer to human beings serve as a form of exclusion, especially in terms of rights (Chomsky, 2014), the word 'illegal' when used alongside migrant or immigrant often implies criminality (Nelson & Davis-Wiley, 2018). Hence, this study uses the term 'undocumented'. The use of the term stems from my perspective and standpoint as a researcher which relates strongly to a human right, ethical discourse which I believe takes precedence over a nationalist discourse. I argue that, regardless of one's legal status, each human being has a right to human dignity and should be treated accordingly (United Nations General Assembly, 1948). This dignity is understood as going beyond showing respect for others. So, Brownsword (2021) argues that:

> I am not sure that I have any good reason to resist the proposal that human dignity should speak to the context for both self-interested and other-regarding agency, for self-development as well as for moral development. Moreover, if we conceive of human dignity in that broader sense, human dignity becomes a much more potent critical idea in relation to a state's treatment of migrants. (p. 23)

The policy contradictions make it unclear what and who '*all'* represents in the category of children within the Bill of Rights, and which of the different groups of non-South African

children are allowed access to education. Hence, even though reports (Statistics South Africa, 2017a) state that a large percentage of children in South Africa have access to education, undocumented migrant children are left out of this number, due to admission barriers (South African Human Rights Commission, 2019). Admission barriers refer to requirements that prevent these children from entering school. Also, the few studies that focus on the migrant child's access to education pay more attention to what policy documents stipulate (Mahmoudi & Mothapo, 2018; Willie & Mfubu, 2016) and the barriers to admission into schools (Crush & Tawodzera, 2014) in South Africa, rather than developing frameworks to ensure equitable access for these children.

In addition to the contradiction, an understanding of what equitable access means is lacking in the literature. However, there is an emphasis on equity which is reflected across the targets included within the scope of the 4th SDG for 2030. The goal seeks to ensure inclusive and *equitable* quality education and promote lifelong learning opportunities for all (United Nations, 2015). It is, therefore, important that educational research considers specific situational experiences to move beyond general expectations for this goal to be fully achieved and to develop a better understanding of equity (Lehtomäki et al., 2014). The need to consider equity is also noted by Moskal and North (2017) who argue that little attention has been paid to this within the educational experiences of migrants. Unterhalter (2009) also highlights the recurrent and vague use of the term 'equity' in different policy documents. For example, although the SDG 4 target focuses on equitable and quality education, the meaning of equity is left unexplained. This target is to "trigger investment in robust national monitoring mechanisms of education equity" and regarding migration, "education systems need to be inclusive and fulfil the commitment to equity, which cuts across the 2030 Agenda" (UNESCO Global Monitoring Report [2019], 2018, p. 4). At an individual level, equity, in terms of access to education, is expressed by McCowan (2013) as the fostering of agency and understanding. Agency "involves the freedom of individuals to pursue their life goals" and understanding refers "to curiosity about and interest in the world, making possible the pursuit of an ever-deeper grasp of the nature of things" (McCowan, 2013, p. 63). Thus, an explanation of *equitable* access to education in South Africa would entail developing strategies for undocumented migrant children's educational experience because it would provide a platform to achieve workable ways to ensure fulfilment of the right to basic education. According to Moskal and North (2017), the successful integration and development of migrant children into society proves the success of educational policies and systems. This success is one which stands against

nationalist, anti-migrant perspectives. Moskal and North (2017) also note that, to ensure access to education in relation to equity, as targeted by the UN, engagement with the three forms of equity namely equity from the top, middle, and below, is required (Unterhalter, 2009). Also required is the importance of paying attention to policy, and the way that education systems are structured. Furthermore, listening to, and learning from teachers, and migrant children, is necessary to ensure equitable access to education (Moskal & North, 2017).

However, only conceptual studies by McCowan (2016) and Unterhalter (2009) have paid attention to educational equity as an avenue for understanding what access to education implies for migrant children in South Africa. A few others, including McCowan (2016) and Moskal and North (2017), have explored the issue of equity in education as it relates to migrant children's access to education in other countries. There are no studies that focus on what enables or prevents accessing education with 'equitable' chances, that concerns undocumented migrant children in South Africa. This also means that little attention is paid to what access means, and an approach for drafting strategies to ensure *equitable* access for undocumented migrant children is absent (Rodriguez, 2019). In line with the aforementioned, this study had three major aims. Firstly, to develop an understanding of equity in relation to access to education. Secondly, to understand the impact of migration on undocumented migrant children in relation to equitable access to education, and thirdly, to develop strategies that can ensure that these undocumented migrant children have their right to basic education protected. These aims would bring about the development of an approach for explaining access to basic education for undocumented migrant children in South Africa.

A qualitative research design from a phenomenological lens provided me with the opportunity to carefully interact with and develop a contextualised understanding of equity as well as the lived experiences of undocumented migrant children. This allowed the development of a better understanding of equitable access to education for them. Methodologically, this study has engaged with participants through their lived experiences to gain an understanding of the opportunities and problems that have an impact on their equitable access to education in South Africa. Theoretically, this study allowed for the development of an approach to explain equitable access to education by combining the capability approach (Sen, 1999) with Unterhalter's (2009) description of equity. In all, while this study focuses on undocumented migrant children, its contribution lies in bringing together a more nuanced notion of equity which I argue, should be combined with key concepts from the capability approach in a way

that can inform policy. So, while there remains an epistemological contribution, the empirical data collected (which are discussed in chapters 4, 5, and 6) support my central argument.

Objectives of the study

This research aims to explore the opportunities and problems undocumented migrant children experience in relation to education. With this, an explanation regarding equitable access to education for undocumented migrant children in South Africa is developed. Following this broad aim, in specific terms, the study:

- Explores what undocumented migrant children and their parents, NGOs and government officials who deal with these children understand as equitable access to education in South Africa.
- Investigates the impact (problems) of migration on undocumented migrant children in relation to equitable access to education in South Africa.
- Develops strategies that can be used to address the problems of migration on the undocumented migrant children's equitable access to education in South Africa.

Research questions

To meet the aims of this study, the main question is:

> What strategies (policy-based, at government and school level) can be put in place to address the problems of migration that undocumented migrant children experience in relation to their equitable access to education in South Africa?

Sub-questions

- What is the perception of undocumented migrant children and their parents, NGOs and government officials who deal with undocumented migrant children on the access to education in relation to equity?
- What impact (problems) does migration to South Africa have on the undocumented migrant children's equitable access to education?
- What strategies can be developed to address the problems experienced in relation to these children's equitable access to education?

The overall argument

The overall argument that I make in this study is that, to ensure equitable access to education is achieved in South Africa for undocumented migrant children, there must be an explanation of equity from a multi-faceted perspective combined with key concepts from the capability

approach. It is on this position that I base my study objectives and research questions. From this argument, the contribution of this study is two-fold. First, the study develops an integrated approach that should be considered for policy making and reform. Second, the study contributes evidence to support the need for contextualised and realistic solutions to be considered for achieving equitable access to education. So, throughout this thesis, every chapter, and each objective and sub-research-question serves as empirical evidence to support my overall argument.

Definition of key terms

The meanings here are drawn from already existing definitions of the terms in extant literature.

Capability Approach	A framework which can be used to evaluate a range of values that draw on an assessment of people's wellbeing, such as inequality, poverty, changes in the wellbeing of persons or the average wellbeing of the members of a group (Robeyns, 2017, p. 26).
Migrant Child	Anyone under the age of 18 who has moved across an international border, regardless of the reason for the move and his or her legal status.
Undocumented Migrant Child	Anyone under the age of 18 who has moved across an international border, regardless of the reason and does not have legal documentation for the country he or she resides. It also describes anyone who was born in South Africa to migrant parents and are without legal documentation. While those who are born in South Africa may be referred to as 'children born to undocumented migrants', in this study, I call them 'undocumented migrant children'.
Phenomenology	A scientific study of the appearance of things, of phenomena just as we see them and as they appear to us in consciousness. In essence, phenomenology is associated with gaining in-depth understanding of occurrences to determine meanings (Moustakas, 1994).

Overview and structure of the thesis

As mentioned, every chapter serves to support my overall argument. Accordingly, this thesis is written as a monograph and is structured around seven (7) chapters as indicated below:

Chapter one – Literature review

This chapter covers the review of extant literature as it relates to the aims of the study. The chapter begins with an introduction which explains what the chapter entails. Next, the literature

reviewed for the purpose of this study is presented with sub-headings which include views on migration; migration in the global North and global South with examples from the EU and its member States as well as Africa; South Africa's view on migration; legislations and policies on migration and the right to basic education; the Phakamisa Judgment; factors affecting equitable access to education; the Covid-19 pandemic as a new problem for undocumented migrants; equity, its etymology and philosophical perspectives; equity in education; and existing strategies for ensuring equitable access to education for undocumented migrant children. The chapter concludes by providing a summary of the gaps identified in extant literature, and the methods the study employed to fill the identified gaps, as well as the contribution of this study.

Chapter two – The study's conceptual framework

In this chapter, the conceptual framework that the study uses, is presented. The chapter begins with an introduction which explains what the chapter entails. Thereafter, a discussion on the capability approach is included and the link to education is explained too. Next, the study's framework is detailed; the framework combines the capability approach with a three-fold explanation of equity in education. The chapter ends with a conclusion on what the framework highlights.

Chapter three – Research methods

This chapter presents the methods that were used in this study. I begin by describing the research paradigm, the study design as well as the study site. I also include a detailed description of the different groups of those who participated in the study. The way the data collection and analysis are done is also presented. I end the chapter by presenting the ethical considerations and quality criteria used for the study. Reflexivity and positionality during data collection and analysis are discussed too. A conclusion on what the chapter entails is also included.

Chapter four – Research findings, analysis, and discussion under objective one

In this chapter, I present the findings of the research based on the study's first objective. Verbatim quotations are used to illustrate the findings and the discussions are made in relation to relevant extant literature and the study's conceptual framework. The chapter describes the perception of undocumented migrant children and their parents, NGOs and government

officials who deal with undocumented migrant children on the access to education in relation to equity.

Chapter five – Research findings, analysis, and discussion under objective two

In this chapter, I present the findings of the research based on the study's second objective. Verbatim quotations are used to illustrate the findings and the discussions are made in relation to relevant extant literature and the study's conceptual framework. In the chapter, I describe the impact (problems) that migration to South Africa has on undocumented migrant children's equitable access to education.

Chapter six – Research findings, analysis, and discussion under objective three

In this chapter, I present the findings of the research based on the study's third objective. Verbatim quotations are used to illustrate the findings and the discussions are made in relation to relevant extant literature and the study's conceptual framework. I present strategies that can be put in place to address the opportunities and problems in the South African context in relation to undocumented migrant children's equitable access to education.

Chapter seven – Integrated discussion and conclusion

This final chapter of the thesis provides a discussion that cuts across the three objectives and research questions that the study sought to answer. An introduction which serves to remind the reader of the specific aims of the study and the key research findings is first presented. Thereafter, a consolidated discussion which cuts across the key findings in alignment with the research questions is presented. Additionally, other emerging themes from the study are discussed. The framework the study uses, as well as a developed explanation regarding access to education for undocumented migrant children from an equity viewpoint in South Africa is also presented in this chapter. I end the chapter by explaining the limitations of the study, recommendations, future research opportunities, as well as presenting an overarching conclusion to the thesis.

In conclusion, here, I have presented the introduction as well as the background to this study including an overview and structure of the rest of the thesis. The chapter included key concepts that the thesis has used and their meanings in the context of the study. Having provided the background, the first chapter considers extant literature in alignment with the specific aims of the study.

CHAPTER ONE: LITERATURE REVIEW

In alignment with the aims of this study, this chapter presents a review of extant literature on equitable access to education for undocumented migrant children in South Africa. The review of literature serves to support my argument for an integrated approach to ensure equitable access to education for undocumented migrant children. To elaborate on this, the chapter specifically begins by exploring views on migration. Afterward, a review of literature on the view on migration in the global North, with an example from the European Union (EU) and member states is provided. Next, literature on the view on migration in the global South, with a focus on Africa, as well as South Africa's view on migration are presented. In addition, the legislations and policies on migration, and the right to basic education, both internationally and nationally (within South Africa) are considered. A sub-section on the Phakamisa Judgment is included too. Also, equity in education and the factors affecting equitable access to education are considered. The Covid-19 pandemic as an emerging problem for undocumented migrant children will also be discussed. Thereafter, strategies for ensuring equitable access to education for undocumented migrant children, based on available literature, is also included. Finally, a summary of the reviewed literature and the arguments raised are presented to conclude the chapter.

1.1 Views on migration

Migration refers to the crossing of boundaries or borders of a marked political territory or nation for a given period of time (Garcia-Zamor, 2018). Guo (2013), in addition, defines migration as the movement of individuals from place to place. Globally, one in eight individuals live outside of their place or region of birth (UNESCO Global Monitoring Report, 2019). Significantly, the idea of migration has been viewed differently, and yet also used interchangeably with the term 'immigration' (Guo, 2013). The difference between the two terms have been noted by Bailey (2008): immigration refers to the movement of individuals from one country to another with the aim of living permanently in the country to which they relocate to. Migration is explained as the internal or international movement of people across local or international borders (Bailey, 2008). The words are used interchangeably in this study. In recognising the different views on migration, Jordan and Düvell (2003) describe four varying notions of migration: nationalist; federalist; globalist; and an ethical view. These four views are discussed in the paragraphs that follow.

1.1.1 Nationalist view on migration

The nationalist view on migration stems from the idea of nationalism. This concept of nationalism refers to a collective action by national governments and their governing units designed to strengthen a nation's borders in line with its governing units that ensures a social order (Hechter, 2008). Nationalism thus ensures that through policies and practices, nations are self-determined. This self-determination encourages national identity and distinct support for the interest of the nation, even to the exclusion of other nations and its members. According to Jordan and Düvell (2003), under the nationalist approach, national sovereignty is valued, and the migration of individuals into the State is perceived as a threat to social stability and political order (Bader, 2005). The perceived menace mostly serves as the main argument for nationalists to close borders (Bader, 2005). This is because migration "can overwhelm collective infrastructures, lay waste to the environment, and destroy cultures [as well as cause] civil disorders" (Jordan & Düvell, 2003, p. 1). By implication, the nationalist view places importance on culture because it is from culture that people shape their beliefs and lives as well as "activate their freedom and autonomy" (Gans, 1998, p. 164). Importantly, a sense of moral standing is associated with the nationalist view of migration, as nationals argue that they hold on to generational and ancestral heritage and traditions, both freely and as a matter of obligation (Gans, 1998). So, "while more effective regulation of migration would benefit from improved international cooperation, governments are often unwilling to give up national sovereignty on vital issues around migration and citizenship" (de Haas et al., 2020, p. 12).

Although nationalism seems to prevent foreigners from moving into and settling within a particular sovereign state, Gans (1998) notes that the support of this view regarding migration is problematic. The problem is drawn from the fact that immigration policies stipulated under a nationalist-based state may view migrants as a fundamental threat to the nation's culture, safety, economy, and productivity of its people (Bader, 2005). As a result of such immigration policies, freedom of movement of people under this approach is only linked to individuals who are willing to *go back* to their countries of origin, or at the least, are prepared to fully acculturate themselves into a new nationality (Gans, 1998). The freedom of movement is thus dependent on the sovereignty of nations to decide whether it is appropriate to accept foreigners (Bader, 2005). In most cases, it is considered disadvantageous. Hence, the idea of a 'global world' is reduced to mean nothing of significance under the nationalist view on migration. This view seems to undermine the basic human rights of individuals who have moved into these nations

different from their original places. The next sub-section which explains the globalist view on migration and so, ideas about global citizenship.

1.1.2 Globalist view on migration

The idea of a globalist view on migration stems from globalisation. According to Garcia-Zamor (2018), globalisation goes beyond the movement of goods, to the movement of human resource which initiates migration and has introduced interconnectedness of economies across the world. Globalisation thus provides a platform for individuals to be cosmopolitan (see Smith, 1979). With the movement of goods and human resources, regular human movement is unavoidable. Supranational organisations such as the United Nations (UN) are thus supported by globalists to ensure the management of movement of people across borders (Garcia-Zamor, 2018; Jordan & Düvell, 2003). An example of this is the summit that was held by the UN in 2016 on refugees and migrants. The UN summit focused on issues that were particular to these groups. In specific terms, the UN noted that States should work toward ending immigration detention, especially of children. This should be accomplished by implementing alternatives to detention; countering intolerance and the social exclusion of migrants through sustainable initiatives to build empathy and confront discrimination; and give specific protection to all migrants in a vulnerable situation (Office of the High Commissioner of Human Rights [OHCHR], 2016).

So, the globalist approach to immigration is viewed as one which serves as an intermediary for implementing distributive justice throughout humanity. Bader (2005) notes that the globalist view places emphasis on the equality of rights across humanity. However, Gans (1998) notes that this approach "leaves open the question of the value of nations… for their core groups" (p. 163). Globalist migration raises important considerations such as national security, transnational crimes, a general moral, ethical standards, as well as cultural differences. Thus, the globalist view on migration seems to neglect the social consequences of free movement (Guo, 2013) including an increase in the dependence on national resources. Clearly, this view on migration does not consider increase in the movement of people across borders as a problem. It brings forward the idea that policies need to focus on how to ensure an increase in "labour markets' flexibility while maintaining and strengthening workers' rights and improving working conditions" (Tacoli & Okali, 2002, p. 1). Hence, the rights of individuals who move

into States with this view on migration tend to enjoy their basic human rights. A distinctive feature of the globalist view on migration is its focus on the need for global citizenship[2].

1.1.3 Federalist view on migration

This view relates to the idea of federalism which is a "form of government in which there is a division of powers between two levels of government [central and regional] of equal status" (Law, 2013, pp. 105-106). Francis and Francis (2011) note that federalism puts forward the chance for States to either fail or succeed in drawing individuals to their territories with the use of their material resources through policies. Hence, federalist views on immigration are represented by clear policies on the place of immigrants with different legal statuses (Rodriguez, 2017). Federalism opposes restrictions on migration policies and relates to Rodriguez's (2017) explanation of an integrated form of federalism which embodies measures that are apparently designed to aid immigrants. The form of assistance provided under this notion allows immigrants to integrate into a country's environment and become accustomed to life within it, regardless of their legal status. Hence, the nationality and/or citizenship of individuals who move across into States are not considered when economic membership is considered (Jordan & Düvell, 2003). Jordan and Düvell (2003) note that the federalist view on migration is that national boundaries serve as an impediment to efficiently appropriating material resources for the success of the country.

Drawing from this understanding, the federalist notion, through an established freedom of movement, is given as a determinant of meaningful equality of opportunity, as well as an instrument of distributive justice (Bader, 2005). Distributive justice refers to a moral standing on the distribution of economic goods and services and focuses on the reality of social mobility (Lamont, 2017). The federalist view on migration is thus explained as an effective allowance for the free movement of people for efficient improvement in State economies (Francis & Francis, 2011). Although this may be seen to be closely linked to a global perspective on immigration, a more distinct feature is that under the federalist view, "a system of distribution based on the federal state structure determines (and limits) the freedom of movement and the

[2] "Global citizenship is the umbrella term for social, political, environmental, and economic actions of globally minded individuals and communities on a worldwide scale. The term can refer to the belief that individuals are members of multiple, diverse, local and non-local networks rather than single actors affecting isolated societies. Promoting global citizenship in sustainable development will allow individuals to embrace their social responsibility to act for the benefit of all societies, not just their own" (United Nations [UN], n.d., para. 1).

chances for societal participation of people" (Laubenthal, 2015, p. 17). By implication, though the federalist view on migration is not averse to freedom of movement, citizenship is not considered as an important aspect of freedom of movement. Jordan and Düvell (2003) express this as 'economic membership, not accounting for citizenship under this perspective.

1.1.4 Ethical view on migration

Jordan and Düvell (2003) explain that the ethical perspective on migration focusses on the victims of nationalism, as well as globalism, in evaluating how systems are managed within the host nations. In clear terms, the ethical notion expresses the vulnerabilities and pressing needs for updated social protections (through policies, recognition of human rights and moral justice) that have come from increasing evidence of globalisation and migration. Some of these vulnerabilities include the consequence of remaining in warzones or life-threatening environments, if other nations or countries refuse acceptance of such refugees; and the consequence of accepting migrants into a country such as this new group taking the jobs of nationals and straining public services (Garcia-Zamor, 2018). Hence migration from this approach requires that whatever action will result in the flourishing of humanity and make human lives better, should be pursued. This view relates to the capability approach developed by Sen (1994, 1999) which calls for an equalised opportunity for humans. Accordingly, immigration policies should be designed in ethically and morally sustainable ways to emphasise the dignity of all migrants. Garcia-Zamor (2018) explains ethical immigration policies as policies that are gainful for both migrants and receiving countries. The need to consider ethical immigration policies brings forward the idea of a humanitarian approach to dealing with migrants by countries hosting them (Collier & Betts, 2017).

1.2 Migration in the Global North and Global South: Examples from Europe and Africa

According to de Haas et al. (2020),

> [s]ettler societies, nascent empires and bustling economies have generally welcomed immigrants, as they fill labour shortages, boost population growth, and stimulate businesses and trade. However, particularly in times of economic crisis and conflict, immigrants are often the first to be blamed for problems, and face discrimination, racism and sometimes violence. This particularly applies to migrants who look, behave differently than majority populations. (p. 1)

This claim indicates that the view on migration in the global North and South has evolved over many years. In this section, migration to industrialised countries, in this case the European Union (EU) and its member States is discussed. Thereafter migration within the Global South, with an example from the African continent, follows.

1.2.1 The EU and migration

Vandenhole et al. (2011) note that while trying to reduce the rate of migrants moving across borders, country policies on migration which serve as control strategies tend to restrict social rights of migrants. The EU and its member States within their migration policy have established ways to manage the flow of migration into the region. For instance, the EU has recognised pathways for attracting legal (documented) migrants through educational and work opportunities (European Commission [EU], 2022). Also, for other kinds of migration other than legal pathways, the EU has established "common rules for processing asylum request [and] readmission agreements for returning illegal migrants" (European Council/ Council of the European Union, 2021, para. 18). This consistency *suggests* that the EU – which is made up of the majority of countries on the continent of Europe, apart from 23 countries (Gregorio, 2020) – seeks to ensure the well-being of individuals who have moved into their member States. In line with this, the rights of these people would be upheld in terms of policy drafting. Recently, an online migration magazine known as *InfoMigrants* (ANSA, 2021) published an article titled, "EU to spend €16 billion on asylum, migration, and border management". This article notes that in accordance with a directive from the EU Parliament, "the Asylum, Migration and Integration Fund 2021-2027 will receive €9.88 billion" (ANSA, 2021, para. 3) while trying to, amongst other needs, contend with "irregular migration". The term 'irregular migration' refers to the movement of individuals which occurs outside "the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination" (IOM UN Migration, 2019, p. 116). Evidently within the EU and its member States, there is an ongoing concern for undocumented migrants, or those who are not legally resident in the concerned countries. The question then is whether, beyond policies and well-planned out strategies on paper, the rights of undocumented migrants are being upheld or denied. However, generally, the EU seems to express its view on migration in a positive light, as well as an avenue for economic expansion, and more importantly, for the achievement of the 2030 Sustainable Agenda for Development (United Nations [UN], 2015).

Drawing from the above, I argue that the EU's view on migration can be classified as both globalist and ethical. Globalist because through work and educational opportunities made available, the movement of individuals is introduced, and this promotes and interrelationship of economies across the world. Ethical because, as mentioned, the EU recognises the vulnerabilities and dire need for updated social protections (through policies, recognition of human rights and moral justice) that have come from increasing evidence of globalisation and migration, especially for undocumented migrants.

However, beyond the scope of this current study, two major obstacles for the EU in its approach to migration exist. Firstly, the waves of migration from wars in Iraq, Syria, Afghanistan, and responses to economic hardship in the global South have seen huge numbers of migrants coming into the EU, and a great deal of political tension between member States on how to cope with this (see Henrekson et al., 2019; Kešel & Sedlák, 2018; Lafleur & Stanek, 2017). Secondly, tensions around migration in EU member States have been associated with the breakup of the Federation, such as Brexit, and threats of exit from right wing parties in France, Austria, and Sweden, and also the rise of racism, attacks on migrants, and electoral endorsement of rights wing ultra nationalist parties in member States (Bevelander & Wodak, 2019; Dennison & Geddes, 2018; Intini, 2016).

1.2.2 Africa and migration

Flahaux and De Haas (2016) state that, the "majority of African migrants continue to move within the continent" (p. 22), as opposed to migration away from the continent. The International Organisation for Migration, in its World Migration Report 2020, indicates that more than 21 million Africans were living in other African countries in 2019 (International Organisation for Migration [IOM], 2019). This aligns with the findings of Awumbila (2017) which show that the majority of African migrants move to other African countries in search of economic empowerment. Thus, the movement from one country to another in Africa takes place *within* Africa (United Nations Conference on Trade and Development [UNCTAD], 2018). When considered as a move for economic empowerment or opportunities, the view on migration within the African continent can generally be thought about as one that puts forward 'oneness of Africans' across the continent, especially with the presence of the African Union. For instance, Flahaux and De Haas (2016) noted that,

> There seems to be a rather clear relation between levels of socio-economic development and the volume and geographical orientation of African emigration. More marginal, poorer or landlocked

> countries tend to have lower absolute and relative levels of extra-continental migration, and their migration is primarily directed towards other African countries. (pp. 16-17)

Individuals who move from one African country to another prefer moving to similar States in terms of culture, and that have better economic strength and opportunity than their countries of origin. Sadly, an increase in nationalist sentiment on migration in different African countries leads to less views of 'oneness' in terms of Africans migrating into African countries. In an article titled *New Nationalism and Xenophobia in Africa: A New Inclination?,* Kersting (2009) argues that,

> Nationalism in sub-Saharan Africa was often regarded as another form of anti-colonial protest. The nation-building process, driven by the new African elite, followed the national unity. Boundaries were declared sacrosanct, and ethnic or cultural diversity was often suppressed. Citizens in most African countries nowadays seem to accept the concept of state and do not question the notion of nation. They have developed a feeling of national solidarity and identity based on an imagined shared history and a common destiny. National symbols such as anthems, flags and soccer teams have fostered a "banal nationalism". (pp. 7-8)

By implication, nationalism has increasingly become the order of the day on the African continent in a bid to 'build' nations; more recent studies have noted this rise (see Abidde & Matambo, 2021; Adejumo-Ayibiowu, 2021; Blessed-Sayah & Griffiths, 2023; Zwanbin, 2023)

The undeniable fact is that with the increase in nationalist perspectives comes an increase in hostility toward 'foreigners' within the host countries. Adejumo-Ayibiowu (2021) notes that because of the increase in nationalist perspectives across many African countries, as the years have progressed, the freedom of movement from one African country to another has become increasingly restricted, which has resulted in xenophobic attacks on non-nationals by citizens. However, I do note that these increased restrictions have not necessarily halted movement to African countries that are considered economically stable. This idea is also highlighted by Flahaux and De Haas (2016) as they argue that the reducing number of African migrants to African countries is due to xenophobic attacks and discriminatory acts of violence, as well as policy restrictions in relation to migration imposed by African countries. Some African countries seem to consistently have cases of violent attacks against non-nationals. For instance, countries including South Africa, Botswana, and Zambia have been known for xenophobic acts against foreign black individuals (Akinola, 2018). Focusing on South Africa, a recent factsheet compiled by Misago and Mlilo (2021) for Xenowatch titled *Incidents of Xenophobic Violence*

in South Africa: 1994 – April 2021, highlighted the frequency of *reported* discriminatory acts of violence against non-nationals. The factsheet indicated that:

> In total, Xenowatch recorded 796 incidents of xenophobic violence. These resulted in at least **588 deaths**, at least **121 945 displaced** and an estimation of at least **4 693 shops looted** in the period of 1994 to 21 April 2021. (Misago & Mlilo, 2021, p. 2, emphasis as in original)

Given these alarming numbers, which only illustrate *reported* cases, there is a dire need to consider how the rights of non-national individuals within South Africa are upheld. Although these attacks are indiscriminately targeted at both legal and illegal migrants, those who are especially low-income earners or without stable sources of income have been consistently reported to be more vulnerable (see Human Rights Watch, 2020; Maina et al., 2011; United Nations Human Rights Office of the High Commissioner, 2022). Often, this group of individuals who are low-income earners are also without proper documentation (see Human Rights Watch, 2020). For this study, the group of non-citizens considered especially are undocumented migrant children.

1.3 South Africa's view on migration

Again, I note that within Africa, migration is ongoing regardless of the increase in nationalist perspectives on migration on the continent. The UN Department of Economic and Social Affairs (United Nations Department of Economic and Social Affairs Population Division, 2017) revealed that, by the year 2017, the number of intracontinental migrants in Africa was 25 million. Interestingly, out of every five, four of these internal migrants moved from other African countries. Studies (Gonzalez-Garcia et al., 2016; Ruedin, 2019; Tati, 2008) note that the majority of intracontinental migration in sub-Saharan Africa has been to countries with relatively higher economies, such as South Africa. Following from this, and in establishing the context of this study, the increase in migration to South Africa continues to highlight the nationalistic view on migration in the country (Bank, 2019). Linking the varying viewpoints on migration to the South African context, Palmary (2018), as well as Crush and Peberdy (2018) note that migration, especially from neighbouring African countries into South Africa, is often explained as a security threat to the country. This view aligns with the nationalist notion on migration (Neocosmos, 2010; Palmary & Mahati, 2015; Ruedin, 2019). Neocosmos (2010) argues that the nationalist view within South Africa systematically excludes foreignness and so, a sense of belonging for non-nationals. He states that "[i]n South Africa, the process of nation formation was one which went against the trend of globalisation which is usually said

to encourage regional… identities" (Neocosmos, 2010, p. 72). Regional identities refer to a concept where States within a particular region (which are beyond national states) interrelate through institutionalised structures (see Paasi, 2009). By implication, while a regional identity extends beyond the boundaries of one nation, national identity focuses mainly on the 'othering' of individuals who do not belong. In the South African context, this can be clearly identified.

For instance, using Harris' (2002) thematic classifications and Waltz's (1959) levels of analysis, in their study, Addae and Quan-Baffour (2022) found that in the South African context, war is defined as violent attacks on African foreigners living in the country. According to the authors, violent attacks against black non-nationals indicate that the safety of these non-nationals is under threat (Addae & Quan-Baffour, 2022). Migrants who are within the borders of South Africa are, therefore, seen as threats to the social order, and to public services made available for 'those who truly belong'. Perceptively, Fanon (1990 [1963]) notes that "African unity, that vague formula, yet one to which the men and women of Africa were passionately attached… takes off the mask, and crumbles into regionalism inside the hollow shell of *nationality* itself" (p. 158). Thus, in South Africa, institutionally, structurally (Aglotsson & Klaaren, 2018), politically (Crush & Peberdy, 2018) and individually, the sense of a national self-determination which refers to the process of building a nation and demarcating 'others' from the national unity is conspicuous (Neocosmos, 2010). As noted by Gordon (2017), presently, immigrants – especially blacks from other African countries – are called '*kwerekwere'* (foreigner or foreign visitor)[3] meant as a belittling title to express the unwantedness of black nationals from other countries, and so, the fading away of African unity, as described by Fanon (1990). At a political level, the objectives and statements of politicians continue to push forward the nationalist view on migration and immigrants in South Africa. Some of these statements include those that highlight the nation's unwillingness to allow migrants within their territory. The statements made by politicians, incite xenophobic attacks (Fanon, 1990; Gordon, 2017) and lead to the denial of the rights of those who are non-nationals of the country regardless of their legal status (Aglotsson & Klaaren, 2018). Sadly, nationalism continues to serve as a platform for xenophobic acts regardless of the government's supposed attempt to draft and implement a "coherent policy of integration… [when] in fact a xenophobic attitude in the government's behaviour" (Kersting, 2009, p. 15). The African Union (AU)

[3] The word *'kwerekwere'* is a derogatory term because it is used to refer to other Black Africans who cannot speak any of the local South African languages.

directive (African Union, 2002),[4] upholds that each member state (having accepted the progressive allowance of the free movement of persons) should ensure that immigrants enjoy the right of being resident and settled within the African continent. However, Achiume and Landau (2015) note that,

> although the African Common Position and the Migration Policy Framework both emphasise a human rights frame as essential to ensuring social integration and the wellbeing of migrants and their hosts, they do very *little* to provide *evidence-based* recommendations for concrete *policy solutions* that would successfully *assist* member states to use human rights in this way. (p. 3, emphasis added)

Consequently, in South Africa the rights of migrants are not duly protected. Explaining what 'rights' are, with a focus on South Africa, Neocosmos (2010) argues that "rights are entitlements which are no longer attributes of a universal human subject ('Man') but fought for by people (anyone) in a context of contestation of what exists" (p. 135). So, individuals who are migrants in South Africa, are faced with the need to 'fight' for their basic rights to be upheld due to the nationalist view on migration that the country holds which brings to the fore issues of xenophobia. Hence, basic rights cannot be upheld without contestations on grounds of individuals' moral worth.

Beyond inciting statements made by politicians which displays a dissatisfaction with, and resentment toward migrants within South Africa, at the local and community levels, the resentment brings about xenophobic attacks and violence against migrants. This idea is highlighted by Misago (2019b) who argues that,

> xenophobic violence in South Africa is triggered by mobilisation of collective discontent invariably generated by a wide range of different factors (such as relative deprivation, beliefs, rumours, etc.) is useful as a significant step towards a clear under-standing of all key determinants of xenophobic violence in South Africa. Such an understanding is necessary for relevant institutions to design appropriate measures/responses to stop on-going violence and/or prevent future recurrences. (p. 8)

In alignment with the capability approach which is used as part of the conceptual framework for this study (see chapter 2, section 2.1), Misago (2019b) highlights that xenophobia within societies (specifically South Africa) requires integrated approaches to solving and mitigating

[4] South Africa was already a member of the African Union (AU), and in fact, one of the major meetings of 2002 was held in Durban, South Africa. The AU was initially known as the OAU (The Organisation of African Unity), however, in 2002, the AU was officially launched in Durban, South Africa (See https://au.int/en/overview). In this thesis, I use both AU and OAU to reference ideas drawn from the organisation depending on the year of publication.

such violent acts. These approaches relate to inter-connected levelled measures and strategies from the micro and macro levels of the society, as well as other social occurrences (Misago, 2019).

1.4 Legislations and policies on migration and the right to basic education

Concerning human rights, with a specific focus on children, international legislations such as the Convention on the Rights of the Child (CRC) which follows from the Universal Declaration of Human Rights (United Nations General Assembly, 1948) have clearly listed the rights of children. The definition of a child, as given by the UN and the African Union, is "*every human* below the age of 18 years" (Organisation of African Unity [OAU], 1990, p. 2, emphasis added). In Article 2 of the CRC, it is stated that no child can be discriminated against on any grounds, including their status, and that measures to ensure this right is protected should be enforced by States. In addition to non-discrimination, children also have the right to belong to a country and be registered immediately after birth. Article 7(1) of the UN Convention on the Rights of the Child, as well as Article 6(1), (2), (3), and (4) clearly state this right. Worth noting is that South Africa is a signatory to these treaties and is thus bound by them. In alignment, the Bill of Rights in Chapter 2 of the South African Constitution, Section 28(1)(a), stipulates that "[e]very child has the right to a name and a nationality from birth" (p. 11).

Regarding the registration of birth, the Births and Deaths Registration Act (No. 51 of 1992) of South Africa, and accompanying Regulations provide stipulations (Birth and Deaths Registration Act, 1992 [Act No. 51 of 1992], 2012). Significant is that the registration of the birth of a child born to foreign parents in South Africa is directly linked to the legal status of the parent(s) within the country. Specifically, the Act states that to register the birth of a child, the parent(s) must have proof of legal documentation to be in the country, as well as an international passport. By extension, the stipulations imply that children born to non-national parent(s) without proper legal documentation will not have their births registered. The Act does not include those foreigners who may have expired international passports, visas, or even no form of identification. Although registering births only by South Africans, or those foreigners with the correct documentation may be a useful gatekeeping strategy, especially in terms of irregular migration, in the long run, the children born in South Africa to people who are not here legally are the ones who bear the brunt of being unregistered. In simple terms, the child becomes *stateless*. However, not all children who are unregistered at birth in South Africa and

undocumented are technically stateless. They are not technically stateless because according to the Section 1 of the Convention Relating to the Status of Stateless Persons of 1954 (United Nations High Commissioner for Refugees [UNHCR], 1954), a *stateless person* is anyone who is not considered a national by *any* State under the operation of its law. For an individual to be termed technically 'stateless', he or she must not have any document showing that he or she belongs to any State or nation. The determination of a stateless status is dependent on various factors including a "bewildering series of sovereign, political, legal, technical, or administrative directives or oversights" (United Nations High Commissioner for Refugees [UNHCR], 2006, p. 8). These events include the:

> transfer of territory or sovereignty which alters the nationality status of some citizens of the former state(s), leaving them without citizenship; arbitrary deprivation of nationality of either individuals or groups by a government; administrative oversights, misunderstandings or conflicts of law – for instance, when a child is born in a country that grants nationality by descent only, but the law of the state of which the parents are nationals grants citizenship only to people born on its territory; administrative or procedural problems such as excessive fees, unrealistic deadlines, lack of appeal or review procedures and failure to notify individuals of the need to register or other obligations; individual renunciation of one nationality without first acquiring another; automatic alterations of nationality in the case of marriage, or the dissolution of a marriage, between couples from different countries; failure to register a child at birth so there is no proof of where or to whom they were born; and being born to stateless parents. (United Nations High Commissioner for Refugees [UNHCR], 2006, pp. 8-9)

Evidently the need to consider individuals, in this instance children, who are stateless, and the need to protect them is significant; however, not all countries are signatories to the treaty. In establishing the context of this study, South Africa is not a signatory to the Convention Relating to the Status of Stateless Persons of 1954 treaty (Khan, 2020; United Nations High Commissioner for Refugees [UNHCR], 1954).[5] Therefore, it becomes more difficult to determine the response to the growing number of stateless children and individuals within the country. Strategies and methods for alleviating the problem of statelessness is more difficult to implement in South Africa (Lawyers for Human Rights [LHR], 2021) because South Africa is not bound to any international treaty in this regard. In a qualitative study, Ackermann (2018) found that out of 45 children who had no form of documentation to claim citizenship within

[5] Khan (2020) specifically notes that "the South African government remains un-persuaded to sign the 1954 and 1961 Conventions" (p. 18).

South Africa, 13 of them were parentless while 10 of them had been left stranded by their parents for at least 4 years. By implication, these children are at risk of being stateless in line with the indicators of statelessness. Also, in South Africa, birth certificates, and legal proof of stay are requirements for entrance into school (Admission Policy for Ordinary Public Schools, 1998).

Additionally, and important for the context of this study, Article 28 of the Convention on the Rights of the Child (CRC) declares that the child has a right to education based on equal opportunity, implying a 'no-discrimination' policy to accessing education. Moreover, this right to education states that primary education is mandatory for *all*. South Africa is a signatory to this treaty, and it was the first international convention that the incoming democratic government ratified in 1995 (Parliament of the Republic of South Africa, 2019). Following from this, the African Charter on the Rights and Welfare of the Child (ACRWC) of which South Africa is also a signatory, drawing from the CRC on non-discrimination, states that

> Every child shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed… 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. (Organisation of African Unity [OAU], 1990, p. 2)

As to the right to education, the Convention stipulates that all children have the right to education, and it is the duty of the state to provide mandatory basic education. Also, the State is expected to ensure equal access to education for all sections of the community, including children who are considered disadvantaged. The definition of disadvantaged children according to Cowles (1967) is a group of children who are not provided with the opportunities considered to be favourable to achieve in the school environment. Disadvantaged children, in relation to the capability approach (this approach is explained in Chapter 3), are also considered to be children who are denied the opportunity to thrive and live the life they value.

Beyond the provision for the right to education, both the CRC and the ACRWC make provisions for refugee children seeking refuge status as either accompanied by guardians or unaccompanied. These legislations make room for the reuniting of the children with their guardians or parents while still ensuring their rights are upheld, regardless of their legal status within the given country. However, researchers including Palmary (2009), Derluyn et al. (2009) as well as Crush and Peberdy (2018) note the confusion and complexity of defining different groups of migrants, including refugees. Specifically, Palmary (2009) describes the confusion of the rights of different categories of migrants amongst service providers.

Considering the South African context, the Constitution, which is at the centre of the promotion of human rights within the country, stipulates the right of *every* child to education. Beyond the Constitution, the Children's Act 38 of 2005 (Children's Act 38 of 2005, 2007) does not include reference to migrant children; this means that all children have the right to education regardless of their legal status. The South African Schools Act of 1996 also gives legal form to school access, as it states that *all* children have access to quality education *without discrimination*. As a follow up, Palmary (2009) notes that, the South African Department of Social Development, through its then Minister in May 2008 at a national conference on *Getting South Africa Ready to Implement the Children's Act*, stated that it was unnecessary to isolate groups of children, including migrants, as the *definition* of 'child' is *not* limited or bounded by *citizenship*, or any other factor as stipulated in the Children's Act.

This explanation, given by the Department of Social Development, aligns with the meaning of Article 29 (1) of the Bill of Rights – contained in the South African Constitution – which stipulates the right to basic education for all (The Constitution of the Republic of South Africa No. 108, 1996). Further, the mention of the obligation of the State to respect this right is stipulated in the Article's subsection 2. The South African Schools Act 84 of 1996 (Republic of South Africa, 1996) which follows from the Constitution, also states that public schools are obliged to admit children without any form of discrimination on any grounds. However, although these policy frameworks give these stipulations and provision for the right of *all* children to access education (equitably without discrimination), contradictions in policy remain the case for migrant children, especially those who are undocumented. For instance, the Children's Act 38 of 2005 (Children's Act 38 of 2005, 2007) in its section 289(2) labels trafficked children found in the country as "illegal foreign" (p. 148). Also, the Immigration Act of 2002 (Republic of South Africa The Presidency, 2002) indicates that no illegal persons may be found on the premises of learning institutions. It thus become a difficult task to determine whether equitable access to education for *all* is a given, regardless of the child's status.

The definition of a migrant, as given by the International Organisation for Migration (IOM), is "a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons" (IOM UN Migration, 2019, p. 132) regardless of the person's legal status. Other groups of individuals who are considered migrants include refugees and asylum seekers. According to the IOM (IOM UN Migration, 2019), the latter refers to those who are outside their countries

of nationality because of recognisable fears, while the former refers to individuals who are seeking international protection. In clear terms, an asylum seeker seeking asylum status, in South Africa, is one who has not received a final decision from the country on their claim to being in danger. Thus, being an asylum seeker does not guarantee recognition as a refugee (see IOM UN Migration, 2019). A refugee, on the other hand, is one who,

> owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. (IOM UN Migration, 2019, p. 171)

The right to education in South Africa

On a daily basis, children of school going ages cross into South Africa from their home countries, and do so without their parents, in some cases (Palmary, 2018). With the issue of migration in South Africa seen as a security threat, becoming part of the society with some rights as a migrant, especially without proper documentation, is highly unlikely. Palmary (2018) notes that the current situation and explanation of the intense negativity associated with moving into South Africa heightens the continuous maltreatment of poor migrants, as well as the well-being of the children who move, especially, without their families. Both Steenkamp (2009) and Neocosmos (2010) show that South Africans have responded to this influx of fellow Africans with considerable animosity and intolerance. This animosity is derived from the belief that the country has been unceasingly flooded by foreign African nationals who have placed, and are consistently placing, an intolerable strain on public services (Crush et al., 2008; Crush & Skinner, 2017), including schools. Although within South Africa there are policies and acts guiding the protection of migrant children, vagueness exists, as noted by Palmary and Mahati (2015), as each policy and Act seems to explain migrant children as those "in need of care" or vulnerable. The meaning of 'in need of care' is expressed as being in a 'given situation' in terms of the South African Children's Act 38 of 2005. 'Given situations' include being abandoned by or separated from family, which is not always the case for all migrant children within the borders. Thus, anonymity in labelling all migrant children as undocumented foreigners on the one hand, or in need of care on the other hand, does not describe the reality of every migrant child in South Africa.

At one of the most porous borders – Lebembo – that joins Mozambique (Palmary & Mahati, 2015), children are said to cross the border into South Africa without passports or permits. Interestingly, these children seem to have found a way out by getting 'the right information' from others and 'doing the right thing'. In this instance, the right information refers to knowing exactly what the border officials require at a particular period of time while, 'doing the right thing' refers to giving bribes and dodging border officials at certain times of the year (Palmary & Mahati, 2015). The migrant children are reported to attend schools close to the borders, and the police place the responsibility of checking paperwork on the schools (see Crush & Tawodzera, 2011, 2014) rather than on themselves. Although some of the migrant children seem to have found ways over the border, others were susceptible to dangers, including being raped, and assaulted (International Organisation for Migration [IOM], 2009). Thus, regardless of how porous the border might be, unaccompanied migrant children still encounter violence. More importantly, the danger of overlooking the vulnerability of migrant children may lie in the administrative, and structural forms of violence within South Africa (Palmary, 2018).

In reiterating the well-known and commonly used phrase, '*every* child has the right to education', it is quite alarming that the word 'every' seems to exclude those who have deliberately crossed national borders. According to the UN High Commissioner for Refugees 2016 report, only 50% of refugee children have access to primary education, and for those in their teenage years, only 22% have the opportunity to attend secondary education, which is still part of the basic education right (United Nations General Assembly, 2016). These statistics are worrisome because, although the SDG goal 4 targets global citizenship through education, in reality, the goal remains theoretical, especially within the South African context. A qualitative study by Crush and Tawodzera (2013) found that only a few migrant children were aware of their constitutional right to education. Beyond being aware of their constitutional right to be educated, the gap that comes through the contradictory stipulations across the various legislations, policies, treaties have been considered in this section. Table 1.1, below, shows a list of the legislations and policies that have been considered in this section of the literature review so far. The question thus remains how the right to education for migrant children, especially those who are undocumented, can be ensured from an equity perspective. By implication, in the South African context, there is a dire need to consider the contradictions in legal frameworks. There is also a need to investigate the social problems and perhaps, opportunities, that have an impact on the equitable access for undocumented migrant children to education.

Table 1.1: Treaties, legislations, policies on immigration and education – Lifted directly from the published documents in July 2021.	
Treaties/ Legislations / Policies On Immigration, Education	**Details on Stipulations**
Universal Declaration of Human Rights (1948) - South Africa is a Signatory	Article 26(1): Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory.
	Article 26(2): Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
United Nations Convention on the Rights of the Child (CRC) (1989) - South Africa is a Signatory	Article 7(1): The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.
	Article 28(1): States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (3): States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.
African Charter on the Rights and Welfare of the Child (ACRWC) (1990)	Article 3 - Non-Discrimination: Every child shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in this 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.
	Article 11(1): Every child shall have the right to education. (3): States Parties to the present Charter shall take all appropriate measures with a view to achieving the full realisation of this right.
Bill of Rights: Chapter 2 of the Constitution of the Republic of South Africa No. 108, 1996	Article 28(1)(a): Every child has the right to a name and a nationality from birth
	Article 29(1)(a): Everyone has the right to a basic education, including adult basic education
South African Births & Deaths Registration Act (No. 51 of 1992)	Registration of Births - 4(4): A notice of birth of a child born of parents who are not South African citizens, shall, in addition to the requirements set out in sub regulations (2) and (3), be accompanied by - (a) proof of lawful sojourn in the Republic; and (b) copy of passport of the informant.

Children's Act 38 of 2005	Section 289(3): A finding in terms of section 156 that an illegal foreign child who is a victim of trafficking is a child in need of care and protection serves as authorisation for allowing the child to remain in the Republic for the duration of the children's court order.
South African Schools Act 84 of 1996	Admission to public schools - 5(1): A public school must admit learners and serve their educational requirements without unfairly discriminating in any way
South African Immigration Act of 2002	Section 39: (1) No learning institution shall knowingly provide training or instruction to- (a) an illegal foreigner; (b) a foreigner whose status does not authorise him or her to receive such training or instruction by such person; or (c) a foreigner on terms or conditions or in a capacity different from those contemplated in such foreigner's status. (2) 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 premise unless prima facie evidence to the contrary is adduced.
South African Admission Policy for Ordinary Public Schools, 1998	Documents Required for Admission of a Learner: (15) When a parent applies for admission of a learner to an ordinary public school, the parent must present an official birth certificate of the learner to the principal of the public school. If the parent is unable to submit the birth certificate, the learner may be admitted conditionally until a copy of the birth certificate is obtained from the regional office of the Department of Home Affairs. The principal must advise parents that it is an offence to make a false statement about the age of a child. (See Births and Deaths Registration Act, 1992 (No. 51 of 1992).) The parent must ensure that the admission of the learner is finalised within three months
	Admission of non-citizens: 19. The South African Schools Act, 1996 and this policy apply equally to learners who are not citizens of the Republic of South Africa and whose parents are in possession of a permit for temporary or permanent residence issued by the Department of Home Affairs. 20. A learner who entered the country on a study permit must present the study permit on admission to the public school. 21. Persons classified as illegal aliens must, when they apply for admission for their children or for themselves, show evidence that they have applied to the Department of Home Affairs to legalise their stay in the country in terms of the Aliens Control Act, 1991 (No. 96 of 1991). Learners

Statues of Stateless Person Convention (1954) - South Africa is not a Signatory.	Article 1(1): For the purpose of this Convention, the term "stateless person" means a person who is not considered as a national by any State under the operation of its law.
	Article 22 - Public Education - (1): The Contracting States shall accord to stateless persons the same treatment as is accorded to nationals with respect to elementary education. (2): The Contracting States shall accord to stateless persons treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.
	Article 27: The Contracting States shall issue identity papers to any stateless person in their territory who does not possess a valid travel document.

1.5 The Phakamisa Judgment

In 2019, the High Court of South Africa in the Eastern Cape Division, Grahamstown, ruled in favour of a group of undocumented children who were denied access to education in a public school in the Eastern Cape province. The ruling has implications for equitable access to education for undocumented migrant children in South Africa. Here, I present details of the case, the judgment passed, and how it affects the undocumented migrant children's equitable access to education going forward.

The Phakamisa case was between the *Centre for Child Law, the School Governing Body of Phakamisa High School, 37 Children V Minister of Basic Education, Member of Executive Council (MEC) for Education, Eastern Cape, Superintendent General of the Eastern Cape Department of Education, Minister of Home Affairs, and the Director-General of Home Affairs* (2019). Undocumented children were denied access to Phakamisa High School because their parents were unable to provide identity documents (international passports, birth certificates, or permits) required for their children to be enrolled at the public school. The basis on which the case was established was drawn from the fact that the South African Constitution (The Constitution of the Republic of South Africa No. 108, 1996) and the South African Schools Act (Republic of South Africa, 1996) clearly indicate that *all* children have the right to education. The case was stated as follows:

> The first and second applicants [*Centre for Child Law, the School Governing Body of Phakamisa High School* respectively] have founded their case on the contentions that (a) the right enshrined in section 29(1)(a) read with section 28(2)(a) of the Constitution accords *everyone* has a basic right to education, and not a right subjected to a condition that they provide identification documents; (b) the impugned decision infringes section 28(2) of the Constitution which provides that [a] child's best interests are of paramount importance in every matter concerning the child; (c) the decision is also discriminatory within the meaning and contemplation of the equality clause and section 5 of the South African Schools Act 84 of 1996 which states that "a public school must admit learners and serve their educational requirements without unfairly discriminating in any way"; and (d) the right to dignity under section 10 of the Constitution. (*Phakamisa Judgment*, 2019, p. 9)

This case highlights the role of legislations in upholding the right to education for all children without discrimination on any grounds. However, with legal contradictions in the Immigration Act as well as the Admissions policy (Admission Policy for Ordinary Public Schools, 1998), there was bound to be legal contradictions in ensuring that equitable access to education is

ensured for undocumented migrant children (see chapter 1, section 1. 4 and 1.8.1). As part of the judgment, the High Court found sections 15[6] and 21[7] of the Admissions Policy (Admission Policy for Ordinary Public Schools, 1998) to constitute major limitations to achieving the right to education as well as other rights such as the best interest of the child and the right to human dignity. The exact words in the judgment state that "that clauses 15 and 21 of the Admission Policy are unconstitutional" (*Phakamisa Judgment*, 2019, p. 29). In addition, it was also concluded that reference to *learning institutions* in the Immigration Act (see table 1.1) was not inclusive of basic education institutions or schools:

> These terms [learning institutions] ought to be interpreted to refer not to the rights of the children who receive basic education, but adults attending "learning institutions" to obtain something over and above "basic education" and are thereby trained or instructed in furtherance of their pursuits. (*Phakamisa Judgment*, 2019, p. 38)

While this interpretation of 'learning institutions' may seem to be a clear distinction of basic education from higher levels of education, I recognise that it still has implications for higher educational opportunities for undocumented migrants in South Africa. However, this study does not delve into issues of Higher Education. Future studies can explore how this interpretation enhances or reduces educational opportunities for study for adults who are undocumented. Another question that arises is whether this 'correct' interpretation given by the High Court represents a vagueness in dealing with the root cause of the legal contradiction that has been noted. Also, while the interpretation of 'learning institutions' has been highlighted in the ruling of the High Court, it remains a priority for further circulation of the judgment by the Department of Education to be done to ensure that the public is aware of this ruling. For instance, when I wrote up this sub-section in 2022, I was unable to find any other document (apart from the judgment) where the interpretation of the terms – learning institutions – was detailed or further discussed. By implication, while it remains important for such rulings to be made, there needs to be clarity provided to society at large about the interpretation because this

[6] Section 15 of the Admission Policy states that: "When a parent applies for admission of a learner to an ordinary public school, the parent must present an official birth certificate of the learner to the principal of the public school. If the parent is unable to submit the birth certificate, the learner may be admitted conditionally until a copy of the birth certificate is obtained from the regional office of the Department of Home Affairs… The parent must ensure that the admission of the learner is finalised within three months of conditional admission" (Admission Policy for Ordinary Public Schools, 1998, p. 3).

[7] Section 21 of the Admission Policy states 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 legalise their stay in the country in terms of the Aliens Control Act, 1991…"

has an impact on whether the right to education is upheld especially across schools in various provinces.

In summary, the High Court ordered that all public schools must:

> admit all children not in possession of an official birth certificate into public schools in the Eastern Cape Province (the schools), and where a learner cannot provide a birth certificate, the Principal of the relevant school is directed to accept alternative proof of identity, such as an affidavit or sworn statement deposed to by the parent, caregiver, or guardian of the learner wherein the learner is fully identified. (*Phakamisa Judgment*, 2019, pp. 41–42)

The Court also ruled that schools must refrain from:

> removing or excluding from schools, children, including *illegal foreign children*, already admitted purely by reason of the fact that the children have no identity document number, permit or passport, or have not produced any identification documents. (*Phakamisa Judgment*, 2019, p. 42)

By extension, it is clear that the Phakamisa Judgment was passed to serve as a court ordered strategy for ensuring that undocumented migrant children are not excluded from accessing education in an equitable way. However, what I find problematic is that part of the judgment still requires parents to get affidavits to prove the identity of their children. To do this, parents of undocumented migrant children would need to go to a police station. But with structurally embedded forms of discrimination, these parents are at risk of being ill-treated or even detained because they are also undocumented and considered *'illegal foreigners'*. My point here aligns with a report by the Lawyers for Human Rights (LHR) report guide on detention of migrants in South Africa. In defining the term 'illegal foreigners' in the South African context, the report guide highlights the implications of being labelled an 'illegal foreigner'.

> The term […] 'illegal foreigner' is problematic for a variety of reasons, including the manner in which it *dehumanises* migrants and assumes that any person could be 'illegal.' It is also highly inflammatory in the context of a country that has experienced repeated violent xenophobic attacks. (Ncube & Tracey, 2020, pp. 24–25)

So, it remains a grey area of the judgment because the process to obtain affidavits for undocumented migrant children by their parents puts the parents in difficult circumstances. Moreover, the use of the term "illegal" tends to support the notion that children born to non-citizens participate in criminal activities. As mentioned earlier in the introduction, the word 'illegal' when used alongside migrant, immigrant, or foreigner denotes criminality 40% of the time (Nelson & Davis-Wiley, 2018). It would mean that undocumented migrant children, even

though seem to have been given an equitable chance to access education through a court ruling, remain a 'threat' to the South African nation.

A broader issue that further arises from the Phakamisa Judgment is that there is a gap between recent court judgments and the implementation of such rulings. For instance, Broughton (2020) as well as Washinyira (2020) reported that undocumented migrant children were still being turned away from public schools regardless of the Phakamisa Judgment. This suggests that there is still a dire need to implement an approach to ensuring undocumented migrant children are able to access education from an equity perspective given this ruling. The Department of Education needs to ensure that such recent rulings are implemented, monitored, and individuals can be held accountable for specific focus areas of the rulings.

1.6 Factors affecting equitable access to education

Across the globe, factors that affect children's access to education share some general features, even though they may vary, depending on the context or nature of the country. Suárez-Orozco and Michikyan (2016) explain that xenophobia, poverty, unauthorised legal status, and the inferior treatment of foreigners, are common variables associated with the fear immigrants have in 'immigrant-impacted' societies. By implication, the factors that affect equitable access to education for undocumented migrant children are similar, however, specific country contexts and views on migration reflect the extent of these variables. These fears are apparent even within education. The 2020 Global Monitoring Report clearly indicates that across the world, "layers of discrimination on the basis of… migration, [and] displacement… deny students the right to be educated with their peers or to receive an education of the same quality" (UNESCO, 2020, p. 14).

In South Africa, a survey conducted by Crush and Ramachandran (2014) found that about 20% of South African nationals who took part in the study stated that they were ready to act against migrant children enrolling in the same schools as their own children. This highlights the need to clearly understand what problems undocumented migrant children face in relation to their equitable access to education within South Africa because a xenophobic and nationalist sentiment continues to deprive undocumented migrant children of their right to education. Extant literature has noted factors including legitimate barriers to admission (Crush & Tawodzera, 2011, 2014; Landau et al., 2018); poverty (Crush & Tawodzera, 2017; Gumus &

Chudgar, 2016; Slemming & Saloojee, 2013; Statistics South Africa, 2017b, 2019); and discrimination, as well as xenophobia (Crush & Tawodzera, 2014; Mathe, 2018; United Nations Children's Fund [UNICEF], 2018) that affect these children's equitable access to education. The factors are explained in detail below.

1.6.1 Legitimate barriers to admission

In a report given by Landau et al. (2018) in South Africa, it was noted that a major factor affecting undocumented migrant children's access to education, especially into government-owned institutions is admission barriers. This problem is expressed in terms of the difficulty in fulfilling the right to basic education because, to get enrolled at any public school, complete paperwork is required and so, those who do not possess documentation cannot be admitted (see Crush & Tawodzera, 2011). This idea of being legally excluded from getting an education is termed "gatekeeping" (Crush & Tawodzera, 2011, p. 9). Consequently, accessing public schooling is seemingly impossible for undocumented migrant children. Although a number of NGOs are doing a great deal to ensure the children get enrolled and have access to basic education, the majority of those who cannot be assisted end up as street hawkers or give in to crimes (International Organisation for Migration [IOM], 2009; Landau et al., 2018). Crush and Tawodzera (2011) found that migrant parents experienced difficultly in enrolling their children in South African schools. This difficulty continues because of the admission requirements in the Admission Policy, which include the child's official birth certificate and an immunisation card (Crush & Tawodzera, 2011, 2014; Admission Policy for Ordinary Public Schools, 1998). The problem is further compounded by the finding that most schools do not allow for a 'grace period' during which migrant parents can provide the documentation for admission (Crush & Tawodzera, 2011). Hence, migrant children, without the required documentation, are not able to access their right to education at all. In another study, Mathe (2018) found that although most of the undocumented migrant children who had participated in the study were keen on attending school, like other South African children, it was beyond their capacity to join schools as a result of the lack of required documentation. This systematic method of keeping migrant children, especially undocumented ones, out of school refers back to the idea of 'gatekeeping' as noted by Crush and Tawodzera (2011, 2014).

1.6.2 Poverty

In a study by Gumus and Chudgar (2016), one of the major findings was that poverty, or children who come from poor households, are more likely to be out of school. Statistics South

Africa (2017) reported that living in an impoverished family serves as one of the major threats to healthy childhood development. This experience is undoubtedly a reality for many children as the report reveals that one of the most vulnerable groups to poverty are children (Statistics South Africa, 2017b). Poor living conditions and concomitantly, dilapidated environments, make these children susceptible to stunted growth, and contribute to an increase in infections and diseases, which in the long run, affects their adjustment to school (Slemming & Saloojee, 2013). Also, Statistics South Africa (2019) reports that the majority of South African children who live in poor conditions and environments have no access to safe play areas. Quite significantly, among migrant children in South Africa, poor living conditions serve as a barrier to accessing education (see for instance, Crush & Tawodzera, 2017). The authors (Crush & Tawodzera, 2017) found that migrants are more susceptible to food insecurity and poor living conditions. With this being the case, the option of attending private schools becomes highly unlikely because of the expensive cost of enrolment and attendance (Crush & Tawodzera, 2014). Private schools refer to schools owned by individuals or non-government owned organisations.[8] While some of these schools are expensive, others are sometimes not registered by the DBE (Richards, 2021). Non-registration means that these schools are not recognised by the DBE to be part of the private schools through which children can complete their basic level of education. Attending such schools can therefore be considered as a 'waste of time'. The difficulties associated with poverty and education which have been mentioned are further compounded since undocumented migrant children are often denied access to public schools, through gatekeeping mechanisms.

1.6.3 Discrimination and xenophobia

A data brief by the United Nations Children's Fund (UNICEF) indicates that as of 2017, UNICEF and the International Organisation for Migration (IOM) found that sub-Saharan Africans are vulnerable to xenophobia and discrimination (United Nations Children's Fund [UNICEF], 2018). This report shows that within South Africa, discriminatory acts are carried out against foreign black nationals from other sub-Saharan countries. Misago (2019a) notes that xenophobia in its different forms, consistently threatens the humanity of non-nationals within South Africa. Unfortunately, it has been often highlighted that South Africa has a history of xenophobia and violence, as well as an increase in the securitisation of its borders (Mlambo, 2020). In qualitative studies conducted by Crush and Tawodzera (2011, 2014), it was revealed

[8] In South Africa, private schools are called 'Independent Schools'.

that discrimination and xenophobic acts are prevalent toward Zimbabwean children in schools. These acts involve the ill treatment of these migrant children, including the use of derogatory phrases, taunts, and attitudes in school by both teachers and local children (Crush & Tawodzera, 2014; Mathe, 2018). Discrimination and xenophobic acts thus serve as factors that impede the undocumented migrant child's equitable opportunity to access education within South Africa. Proof of this impediment is given by the South African Human Rights Commission (SAHRC). In 2017, the commissioner responsible for the Basic Education portfolio, SAHRC issued a statement after a major xenophobic attack. The commissioner noted that:

> As the nation reels from more xenophobic violence, another equally egregious form of institutionalised xenophobia played out far from the glare of public attention. It was directed at schoolchildren, *compounding* the *violation,* and infringing on the basic *right* to *education*. (Gaum, 2017, para. 1, emphasis added)

Thus, black migrant children who have been able to get enrolled at public schools in South Africa still struggle with attending school throughout the school year because of the almost yearly xenophobic attacks, which is no longer being directed only at migrant adults. Vandeyar and Vandeyar (2014) in their study revealed that the discrimination experienced by migrant children in South African schools is related to stereotypes about migrant groups, as well as the academic and social exclusion of migrant children. Social exclusion in this instance, refers to being deprived from accessing basic services including education (Saunders et al., 2016). A report by Masuku (2018) indicates that participants mentioned that South African nationals called the migrants derogatory names, which indicate a lack of honour or prestige and concomitantly, a diminished identity.

1.7 The Covid-19 pandemic: A new complication

In 2020, the Covid-19 pandemic resulted in total lockdown of countries across the world. Although the lockdown was considered necessary by supranational organisations, including the World Health Organisation (WHO), national governments, and other organisations, the resulting effects of the lockdowns have been far-reaching. According to Woods et al. (2020), a major impact has been the increase in nationalist perspectives and movements (which has been discussed in section 1.1.3). This impact is linked to the continued negative view on undocumented migrants and migration. Along these lines, the far-reaching effects have had an

impact on migrants and their families. For this study, the political (including policy), social, economic, and educational impacts of the Covid-19 pandemic are considered respectively.

Miller-Idriss in her section of a recent article (Woods et al., 2020) on the impact of Covid-19 notes that the continued rise of nationalism during periods of the pandemic has negatively affected migrant groups. This includes "xenophobic, anti-immigrant, anti-Asian and anti-Semitic hate during the global pandemic" (p. 816). An example is given about the rise in anti-immigrant activities:

> Dehumanising language about 'dirty' immigrants carrying disease has accompanied immigration bans along with border closures, asylum application denials, deportations and more, even while the practices of local 'native' populations that rapidly spread the virus in local churches, parties, funerals, ski lodges and more have continued in more or less unchecked ways. (Woods et al., 2020, p. 817)

By implication, although the pandemic has had an impact on the whole world, it has also heightened the negative view on migration that nationalism endorses. This creates a problem for explaining whether the basic rights of migrant populations were in anyway upheld during the Covid-19 pandemic. To further explain this idea, Dionne and Turkmen (2020) note that as the spread of Covid-19 increased across the world, the rise of discriminatory and violent acts against marginalised groups was evident. According to Dionne and Turkmen (2020), examples of discriminatory acts against migrant groups in the United States of America (USA) include the use of derogatory labels to identify the pandemic ("Chinese-Flu; Kung-Flu"). The authors (Dionne & Turkmen, 2020) concluded that the *othering* of certain migrant groups steadily increases existing tensions and inequalities between groups in different nations (Dionne & Turkmen, 2020). However, this discrimination is not peculiar only to the Covid-19 pandemic but has occurred in previous times (see Dionne & Turkmen, 2020). The pandemic has just exacerbated the discriminatory acts in various societies against migrants and minorities.

Similarly, Woods et al. (2020), within the African continent, the call for a resistance to nationalist perspectives in responding to the Covid-19 pandemic has been made. Particularly, Aimée-Noël et al. (2020) argue that "migrants and displaced people across Africa are particularly vulnerable to COVID-19 transmission. Governments should *resist nationalist responses* that could put vulnerable people more at risk and exacerbate the spread" (p. 12, emphasis added). Clearly, there is a dire need in Africa for making consideration for vulnerable populations, in this instance migrants, during difficult times like the Covid-19 pandemic. South

Africa is not left out of the negative political impact highlighted in other countries. South Africa's response to immigration is progressively becoming more difficult, especially for less skilled individuals who now face heightened chances of being kept out of the country's borders (Carciotto, 2021). More specifically, during the Covid-19 pandemic, "border closures and an increasingly restrictive immigration management system risk pushing more people into unsafe and irregular migration routes, rendering people undocumented" (Vearey et al., 2021, p. 5). Hence, although South Africa has recorded cases of xenophobic incidences and discriminatory practices in the recent past, the Covid-19 pandemic has heightened these problems at a political level (see Vearey et al., 2021; Zanker & Moyo, 2020). A good example of this discriminatory practice is reported in an article published by Zanker and Moyo (2020),

> Now, in the midst of announcing the rules pertaining to the shutdown, the Minister of Small Business Development, Khumbudzo Ntshavheni, noted in a briefing that whilst *spaza* shops may operate, only South African owned and operated ones may do, claiming; "We want to make sure that the quality of food and surety of the quality of products is there". (p. 106)

Such harmful and community-protecting decisions further exacerbate the problems faced by migrant individuals within South Africa. Along these lines, the economic and social negative impacts of the pandemic have also been steadily reported in online news articles as well as published academic journal articles. Below I consider these aspects of the recurring problems during the Covid-19 pandemic. In a policy brief, Ouassif (2020) argued that the Covid-19 pandemic has brought about negative outcomes in terms of economic and social impacts. Within South Africa, xenophobia, and discriminatory acts, which are embedded within systems of government, intensify poor socio-economic conditions for non-South African citizens in the country (Mukumbang et al., 2020). Although this has already been noted, these conditions have been exacerbated as a result of the Covid-19 pandemic and several studies have highlighted the problems (Mukumbang et al., 2020; Mulu & Mbanza, 2021; Odunitan-Wayas et al., 2021). Along these lines, the need to consider the pandemic as a driving force of difficult conditions, especially among undocumented migrant communities is necessary. Here, Mukumbang et al. (2020) argue that an "effective response to the socioeconomic problems *imposed by the Covid-19 pandemic* should consider the economic and health impact of the pandemic on asylum-seekers, refugees, and undocumented migrants" (p. 1, emphasis added). Beyond the need to consider economic and health impact of the pandemic and forced lockdown on undocumented migrants, there is also a need to consider the educational problems that Covid-19 has created for these people.

Significantly, for this study "education has not been spared during the Covid-19 pandemic that has exposed deep inequalities across the world along lines of 'race', class, gender, and geography" (Black et al., 2020, p. 40). A study (OECD, 2020) conducted in European countries on the impact of Covid-19 on migrants includes interesting findings. The study found that children of migrant origins were more likely to be disadvantaged in terms of online learning due to language barriers, but more importantly, due to socio-economic reasons, including access to internet, as well as digital devices. Similarly, a study conducted by the International Labour Organisation (ILO) in conjunction with the UN in Arab countries found that migrant children found it more difficult to access education during the pandemic (United Nations [UN], 2020). Also, the study found that across different Arab countries, these children experienced similar problems regarding technological and language barriers. According to the report, these identified problems further restricted their accessibility to online educational experiences during Covid-19. So, it is evident that across the globe, there has been an increase in the problem of accessing equitable access to education for migrant children, especially those who are undocumented because of Covid-19.

Within the South African context, from the forced lockdown period in 2020 up until the time when this literature review was written, continued reports were being published highlighting the increase in barriers to accessing education in an equitable manner for undocumented migrant children. For instance, in an online news article titled *Schools Still Turning Away Immigrant Children* (Washinyira, 2021), it was reported that parents of undocumented migrant children were still being turned away from schools. This report appeared even though the Department of Basic Education (DBE) had indicated that it was acceptable to allow undocumented children to be enrolled in schools while their parents sorted out their paperwork based on the ruling of the Phakamisa case (*Phakamisa Judgment*, 2019). However, the question remains whether the parents would ever be able to get their documentation issues sorted out. In addition, the report is not isolated; other reports have been published which support the increased inequality during the pandemic. In August 2020, a webinar report titled *Migrant children's battle for a decent basic education in South Africa* was published (Ho, 2020). According to the webinar report,

> Equal Education's [an NGO] general secretary, Noncedo Madubedube, pointed out that the impact of Covid-19 has again laid bare inequalities and structural failings. It means black children – documented, *undocumented* and those in poorer schools — are falling further behind even as more of the school year slips away" (Ho, 2020, para. 17, emphasis added).

Another report by Human Rights Watch (2021) highlighted that due to the Covid-19 pandemic, children who were already considered at risk of being out of school were further at risk. Having indicated the already identified problem with the Covid-19 pandemic and the reduced possibility of accessing education for undocumented migrant children within South Africa, there is a need to consider strategies that have been suggested by previous studies to ensure equitable access to education for these group of children.

1.8 Equity: Its etymology and philosophical viewpoints

The word 'equity' is derived from old French *equité* as well as from Latin *aequus* which translates to 'equal' or 'fair'. The meaning of the word in the Oxford Dictionary is "a system of natural justice allowing a fair judgment in a situation which is not covered by the existing laws" (Oxford Advanced Learner's Dictionary, 2022). The Merriam-Webster dictionary specifically states that equity is freedom from bias or favouritism. It further explains that equity is "a system of law originating in the English chancery and comprising a settled and formal body of legal and procedural rules and doctrines that supplement, aid, or override common and statute law and are designed to protect rights and enforce duties fixed by substantive law" (Merriam-Webster Dictionary, 2022). By implication, the meaning of the word – equity – does not readily align itself to the formal laws applied to specific circumstances. This is carefully articulated by Beckmann (2017) that equity differs from common law because it may be realised beyond the boundaries of the prescribed laws; equity however remains valid and implementable. Based on the meaning of the word, it then follows that:

> One could with some confidence, then, deduce that equity goes beyond laws and other forms of regulation and speaks to the intelligence or common sense of man, appealing to rational principles which guide his conduct and are uncorrupted by dishonesty, falsehood, or indulgence of the baser passions. It would also follow, then, that one should not attempt to understand or measure equity solely in terms of the law and other forms of regulation. (Beckmann, 2017, p. 7)

Having considered the etymology of the word equity, it is necessary to consider its philosophical meaning. Lawrence and Reder (2019) note that equity has remained a philosophical term from 'ancient Greek'. This implies that from time past, the need to clearly understand equity from a critical perspective has been considered. Hence, it is needful to engage with the philosophical explanation of equity because such explanations allow for more robust reflections, especially where the law fails to provide clarity of the concept. Here, I develop the concept in terms of justice, and from the Aristotelian perspective.

Beginning with equity as justice, I turn to Rawls' ideas. He writes, "the concept of justice I take to be defined... by the role of its principles in assigning rights and duties and in *defining* the *appropriate division* of *social advantages*" (Rawls, 1999, p. 9, emphasis added). This illustrates that justice is explained, in a given society, by the distribution of what each person can do or access, which is determined in a manner that does not advantage one person over another. Here Rawls (1999) argues for the need to consider a democratic form of equality which speaks to 'equality of opportunity,' and by extension, equity. In explaining, he states that "the higher expectations of those better situated are *just* if and only if they work as part of a scheme which *improves the expectations of the least advantaged* members of society" (p. 65, emphasis added). Justice is thus viewed from the perspective of fairness because its meaning is based on a set of principles that are fair, and to the advantage of those who are vulnerable (Rawls, 1999). Suffice to say, "equity as justice addresses questions related to how goods, rights and duties, benefits and burdens should be allocated and to whom" (Lawrence & Reder, 2019, p. 517). Equity from the notion of justice thus gives us the platform to discuss the distribution of resources as well as the upholding of rights to the advantage of all within the society.

For Aristotle, the concept of equity is expressed as a response to the problem identified with fixed laws. In *The Nicomanchean Ethics*, Aristotle articulates the problem of laws and the manner in which they are generally applied. He notes that while laws are expressed as universal, it remains impossible for already given laws to cater for all kinds of injustice, and the different behaviours displayed by human beings. Hence, there is a need to critically consider tailor-made strategies that will cater for circumstances that do not fit within the universal law. To this end, Aristotle explains the idea of 'correction' to the law and the completion of it. He states that, "when the law speaks universally, and a case arises on it which is not covered by the universal statement, then it is right, when the legislator fails us and has erred by over-simplicity, to correct the omission" (Aristotle, 1984, V. 1137b33-1138a3). In finding tailor-made solutions, the significance and meaning of equity is defined. This implies that equity should be understood as a way to respond to the limitations of universal laws. Being equitable then extends beyond what the law considers as 'just'. Aristotle highlights that equity "is better than one kind of what is just" (Aristotle, 1984, V. 1137b6-1137b32). Simply put, what the law considers as 'just' does not always translate to an equitable way of dealing with individuals in different circumstances because the law itself cannot foresee all these circumstances.

While somewhat different, Aristotle and Rawls' notions of what equity means highlight the opportunity for contextualised applications of the law. In clear terms, "equity emphasises the need for a normatively justified implementation of universal claims in different contexts and involves actors balancing conflicting interests in a moral way based on broader notions of public good rather than narrow self-interest" (Lawrence & Reder, 2019, p. 519). By implication, any consideration made to ensure equitable access to education must be an approach that critically examines policy formulation and implementation from the lens of justice as fairness. There is also a need to ensure that these policies are context-based. The next sub-section presents an explanation of equity from an educational perspective.

1.9 Equity in education

To fully grasp the significance of the meaning of educational equity in policy documents and international frameworks, the meaning of equity needs to be properly determined. Policy documents, including the Education 2030 Framework for Action (FFA) (World Educators Forum, 2015) and others mentioned above (see section 1.4), do not explain what equity entails, thus an explanation of the word will put into perspective what, in specific terms, equitable access to education means, particularly for undocumented migrant children across the globe, and especially in South Africa. Unterhalter (2009) notes that the meaning of equity, in literal terms, entails fairness, and equality. However, she explains how problematic limiting equity to equality is in terms of existing diversities in given contexts. McCowan (2016) also notes that the notion of equity should be explained in terms of fairness, because in given circumstances, it might be acceptable to treat individuals in different ways, depending on their current state or placement within the society. In Rawlsian terms, this relates to distributive justice or justice as fairness which provides the platform for social arrangements to be considered as a way of efficiently upholding rights without disadvantaging anyone (see Rawls, 1999). The circumstances under which social arrangements might need to allow for different treatment may include ones which serve as overwhelming barriers (such as physical impairments) that individuals do not have control over. Hence, McCowan (2016) suggests "equality of opportunity" (p. 648) as equity (within education). In line with McCowan's idea of equal opportunity, the World Bank (2012) notes that

> [a]n *equitable* society would not allow circumstances over which the individual has no control to influence her or his basic opportunities after birth… [i]deally, only the person's effort, innate talent, choices in life, and, to an extent, sheer luck, would be the influencing forces. This is at the

> core of the *equality of opportunity* principle, which provides a *powerful platform* for the formulation of social and economic policy — one of the rare policy goals on which a political consensus is easier to achieve. (p. xii, emphasis added)

The parameters for measuring equity and strategies of uprooting inequity must be country and area specific to reach the most excluded segments of the society (UNESCO Global Education Monitoring Report Team, 2010). In analysing what equity within education entails, Unterhalter (2009) explains equity from below, the top and middle. This explanation is necessary because, to gain understanding of how equity can be ensured across society, the concept must be analysed in various ways. I provide a detailed explanation of these forms of equity in chapter 2 because they form part of the study's conceptual framework.

1.10 Strategies for ensuring equitable access to education for undocumented migrant children

The way education sectors in different countries respond to its migrant population influences both the social and economic welfare of the migrant population, as well as the community at large (Schleicher, 2015). So, in a report compiled for the United Nations Children's Fund (UNICEF), Dooley (2017) highlighted that UNICEF has recognised the need to develop platforms or approaches that allow children, especially migrant ones, to get an education. More importantly, UNICEF encourages the use of holistic, relevant, context-based strategies for ensuring access to education for migrant children (Dooley, 2017). Strategies thus need to be contextualised based on specific country problems. Drawing from this, it is necessary to consider strategies that have been considered important across extant literature in relation to access to education for undocumented migrant children. Six strategies that have been identified according to UNICEF are "integrate, invest, strengthen, engage, co-create [and] seek…" (Dooley, 2017, p. 32). Furthermore, the identified strategies relate to other studies that have been conducted in other contexts outside South Africa. The strategies make considerations for access to education from an equity viewpoint. For, "protecting equal access to […] education promotes a stronger society, regardless of whether the person is a citizen or an undocumented immigrant" (Donoghue, 2020, p. 1280). These strategies are explained below, and in relation to other studies.

1.10.1 Integrate

This strategy involves the integration of all children who have migrated from their countries of origin into the schooling system without discrimination because of their legal status within the country, so that these children can access education without the documentation barrier (Dooley, 2017). Linking this strategy to what other studies have highlighted, Fonseca de Carvalho (2018) argues that migrant children should be allowed to enjoy being a member of the school community. In doing so, the platform for cultural diversity and the universalisation of the right to be educated would be enacted and upheld. According to Fonseca de Carvalho (2018), "opening of the school to a greater variety of cultural matrices seems to be an opportunity for significant expansion of the symbolic experiences of *all* its students" (p. 21, emphasis added). Hence, equity in education will become a chance for children to become open-minded toward children with diverse cultural backgrounds. In turn, the migrant children would be able to achieve their capability of being educated. Similarly, and beyond, a study conducted in Europe (Vaiopoulou, 2017) noted that integrating migrant children into the society, and into schools, would in the long run benefit the European population, which is mostly aged.

1.10.2 Invest

This involves the funding and provision of services and resources to ensure that migrant children receive excellent education and have positive learning experiences (Dooley, 2017). Similarly, Schleicher (2015) in a report compiled for the Organisation for Economic Co-operation and Development (OECD) suggested that countries can provide funding to schools as an encouragement for high-brow schools to enrol migrant children. These high-brow schools refer to privately owned schools whose tuition fees are not affordable to families or individuals without sufficient financial means. These schools are also considered highly intellectual and usually encourage children to participate in extra-curricular activities to ensure an all-round learning experience. In relation to equity, Unterhalter (2009) highlights the importance of resource distribution as part of equity; this is described as equity from the middle and is detailed in chapter 2. The significance of equity from the middle is also noted throughout chapters 5, 6, and 7.

1.10.3 Strengthen

This involves the strengthening of schools and education systems within host countries to create platforms for effective and efficient learning experiences of migrant children through well-resourced schools (Dooley, 2017). The idea of co-creating aligns with what the United

Nations High Commissioner for Refugees and others (UNHCR et al., 2019a) recommend for ensuring the right of this vulnerable group of children to get educated. They (UNHCR et al., 2019a) recommend the provision of directed support in terms of building the capacity of schools to provide excellent learning experiences for these children.

1.10.4 Engage

This deals with the collaboration of both public and private institutions to aid (technically and using human resource) the education of migrant children from different origins (Dooley, 2017). Drawing from the strategy of integrating migrant children into education systems, the need to engage both the public and private institutions is also noted by the European Union in a report compiled by its Education and Training Division. According to the report (European Commission/EACEA/Eurydice, 2019), engaging different stakeholders would allow for the holistic integration of migrant children, and there would be support in terms of human resources from the community at large. In the South African context, this can be done through engagement with NGOs. For instance, a study conducted by Mkwananzi and Cin (2020) highlights the role that a South African based NGO (Albert Street School) plays in ensuring equitable access to education for undocumented migrant children. From the study, the authors provide examples of how Albert Street School, which was founded as a result of grass-roots community effort, promotes and influences migrants' capabilities, and how these capabilities result in desires for the common good.

1.10.5 Co-create

This strategy involves working with governments, private and public institutions to jointly create solutions that allow migrant children have no gaps in their education (Dooley, 2017). Actions in this strategy include:

> Find[ing] alternative learning methods and curricula that incorporate pedagogical innovations and can be tailored to the needs of different locations and populations. Address[ing] operational challenges such as teacher payment systems, infrastructure issues, data management, connectivity, and quality assurance. Develop[ing] curricula, methods and materials that help children overcome language and cultural barriers in new countries. (Dooley, 2017)

Here, I note the relevance of this strategy in relation to Unterhalter's (2009) explanation of equity as a threefold concept which allows interaction with different levels of the society. Combined with the capability approach, specific structural limitations can be determined and contextualised tailor-made solutions developed. In chapter 2, I discuss the capability

approach, as well as the three-fold explanation of equity in detail; these form the conceptual framework used for the study.

1.10.6 Seek

This includes finding efficient ways to store data about children who move across borders from an internationally designed system that is accessible to organisations, individuals, and governments across borders, for the benefit of the children (Dooley, 2017). Regarding seeking efficient ways to store data on children moving across international borders, UNHCR et al. (2019) in a fact sheet, highlighted the need for data management systems across Europe to keep track of refugee and migrant children in relation to their access to basic amenities, including health and education.

Worth noting is that these strategies can be related to the idea of considering access to education from a three-fold equity perspective (equity from the top, middle, and bottom) as given by Unterhalter (2009) (which has been mentioned in section 1.9 and explained in chapter 2). Along this line, this study aimed to investigate the opportunities and problems undocumented migrant within South Africa experience which will lead to an in-depth understanding of their situation in terms of accessing education. From there this study focused on developing an approach to ensuring equitable access to education for these group of children within South Africa using contextualised strategies.

1.11 Summary of literature review

This chapter has presented my study from the lens of extant literature, and specifically, in relation to the concepts linked to the purpose of this research project. In the review of literature, I have provided general views on migration and the view on migration in the global North with an example from the EU and member States, and in the global North with a focus on Africa. I have also provided a review of extant literature on South Africa's view on migration. Thereafter, the legislations and policies on migration and the right to basic education both internationally and nationally (within South Africa) were presented. I included literature on the Phakamisa Judgment, etymology and philosophical perspectives on equity, equity in education, and the factors affecting equitable access to education were presented in this chapter too. I provided existing literature which relates to the Covid-19 pandemic as a problem that emerged for undocumented migrant children during the time this thesis was written up. Thereafter,

strategies for ensuring equitable access to education for undocumented migrant children based on literature were also presented.

The chapter has revealed the view on migration in South Africa, and how this view has an impact on the upholding of the rights of non-nationals based in the country. While the view seems to work together for the 'good' of South Africans, the question of how the rights of 'foreigners' are being upheld remains. Some difficulties undocumented migrant children face in relation to their access to education has also been highlighted. The literature revealed that the right to access education is limited based on the basic requirements to be enrolled at schools. The Phakamisa Judgment has also been highlighted, and the understanding that the ruling has implications for access to education has been indicated. The concept of equity has also been reviewed to further explain how the right to accessing education is understood. What remains significant is that through the inclusion of and engagement with extant literature, my attention is drawn to the need for an integrated way of ensuring the right to education is achieved for the identified group of children. This need points to a gap in the theorising of the interdisciplinary link between education and migration studies that would foster the development of individuals, especially those in vulnerable positions (see for instance, North & Chase, 2023). The next chapter highlights the conceptual framework used in alignment with the purpose of this study.

CHAPTER TWO: CONCEPTUAL FRAMEWORK

In this chapter, I present the conceptual framework that has been used for the purpose of the current study. The need for a conceptual framework stemmed from the gaps that I found while I reviewed extant literature in relation to the objective of this study. From reviewed literature, it was apparent that while the view on migration might be favourable to South Africans, the question of how the rights of others can be fulfilled, in an equitable manner, remains questionable. Knowing this, it became obvious that an explanation of equity, as well as the fundamental idea of how basic human rights can be ensured in form of a framework, is required. These ideas are also significant in developing an approach to ensuring that undocumented migrant children within South Africa have the opportunity to access education in an equitable manner.

The sections in this chapter begin with a description of the three forms of equity in education. Next, I provide an explanation of a framework which presents fundamental ideas on human development and its use within the educational space. Thereafter, the conceptual framework developed for the purpose of this study is included. The chapter ends with a summary of key ideas.

2.1 The three forms of equity in education

As discussed in chapter one, section 1.9, Unterhalter (2009) highlights three forms of equity in education. I argue that understanding equity as a three-fold concept provides a platform for issues regarding access to basic education for *all* to be considered, regardless of one's legal status. Hence, in this section, I draw on Unterhalter's (2009) explanation of equity. The explanations provided here serve as evidential support for my central thesis.

Equity from below

Equity from below, within education, means creating a space of dialogue where the specific concerns of individuals or groups are considered and negotiated through a process of reflection, reasonableness, and resolution. This form of equity ensures the development of individual agency and considers the extent of difference or diversity that is needed for people to be treated as humans with rights. In Unterhalter's words, "equity from below thus takes seriously aspects of *personal heterogeneity* both in circumstances and in conceptions of a *good life*" (Unterhalter, 2009, p. 418, emphasis added). In relation to undocumented migrant children and access to

education within South Africa, their diversity needs to be considered through dialogue with them, to give them a chance to flourish in the society through education.

Equity from the middle

Equity from the middle involves social arrangements that are provided for the accomplishment of a set goal. Within education, this form of equity is related to the "movement of ideas, time, money, skill, organisation, or artefacts that facilitates 'investments' in the learning of children" (Unterhalter, 2009, p. 421). By implication, equity from the middle refers to that which is *acted out* to ensure the enforcement of regulations or rules, as well as negotiated decisions that ensure fairness in education. In the context of migrant children in South Africa, equity from the middle includes practices that are carried out which will ensure access for the specific group of children.

Equity from the top

Equity from the top expresses set rules or frameworks that decide what is reasonable, fair and the 'right thing to do' (Unterhalter, 2009). This form of equity is given approval through set authorities, including documents or agreements provided by supranational organisations, and national jurisdictions. For instance, across the globe, the Universal Declaration of Human Rights of 1948 (United Nations General Assembly, 1948) decrees that everyone has the right to be educated, and within South Africa, the Constitution (The Constitution of the Republic of South Africa No. 108, 1996) and Schools Act 84 (Republic of South Africa, 1996) also restate the right of *all* to education. These stipulations endorse fair practices in relation to access to education. To make a connection to undocumented migrant children's access within South Africa, the International Organisation for Migration (global level); the African Union document on migrants in the African continent (African Union, 2006); the South African Schools Act 84 of 1996; the Immigration Act (Republic of South Africa The Presidency, 2002) all give meaning to fairness regarding non-nationals, and their rights within the society. It is important to recognise that the South African Constitution was driven by a universality notion of human rights, as opposed to a nationalist one (Steenkamp, 1995).

Likewise, the South African Schools Act 84 of 1996 was also founded from a human rights perspective.[9] However, the Immigration Act gives a contradictory view on equity from the top regarding the rights of undocumented persons. Suffice to say that the Immigration Act trumps the human rights mandate of the Constitution. This means that although the Constitution serves as the fundamental set of laws that guide the South African State, specific laws that apply to immigration matters, which should be drawn from the Constitution and previously decided cases appear, does not in its entirety express the human rights perspective from which the Constitution was drafted. Also, while this Constitution should have precedence over the Immigration Act No. 13 (Republic of South Africa The Presidency, 2002), in practice this is not the case because government institutions choose to remember and adhere to the stipulations regarding access to education in the Immigration Act (Republic of South Africa The Presidency, 2002). Thus, the legislative contradictions, and contradictions in government, national consciousness, and the economy. Hence, a gap in what equity entails is still left to chance and creates uncertainty and confusion within South Africa. A constraint is evident beneath supposed provisions available for upholding the humanity of heterogenous individuals without South African nationality.

The three forms of equity combined

Importantly, and beyond each form of equity within education, equitable education is only possible when its three forms are considered together in the given context (Unterhalter, 2009). In a later article, Unterhalter (2016) notes the importance of "considering [equity in three] parts to illuminate the whole, rather than the rigorous system led comparisons, that are so evident in much policy discussion" (p. 16). Consequently, thinking critically about the South African context, especially in the case of undocumented migrant children (who are without the required legal documents), it is necessary to view equity holistically, while considering its various dimensions. Moreover, the situation of undocumented migrant children in South Africa presents a complex situation which requires an approach that allows for equitable access to education to be considered beyond generalised laws and methods of 'dealing' with individuals

[9] In the Preamble, the Act stipulates: "WHEREAS this country requires a new national system for *schools* which will redress past injustices in educational provision, provide an education of progressively high quality for all *learners* and in so doing lay a strong foundation for the development of all our people's talents and capabilities, advance the democratic transformation of society, combat racism and sexism and all other forms of unfair discrimination and intolerance, contribute to the eradication of poverty and the economic well- being of society, protect and advance our diverse cultures and languages, uphold the rights of all *learners*, *parents* and *educators*, and promote their acceptance of responsibility for the organisation, governance and funding of *schools* in partnership with the State" (Republic of South Africa, 1996, p. 1)

who are ‘wrongfully’ within particular countries. On this basis, I argue that while the three-fold equity perspective is important, it does not sufficiently cater for the complexity of the undocumented migrant child’s equitable access to education. Hence, the framework for this study considers the merging of the forms of equity with Sen's (1999) capability approach. While I acknowledge that the initial discussion of the levels of equity was informed by the capability approach (see Unterhalter, 2009, 2016), I argue that there is room for a more substantive and robust engagement integrating the three-fold concept of equity and the capability approach. This study develops this through its conceptual framework which is discussed in detail in the sections that follow.

2.2 Capability approach

The capability approach is “an intellectual discipline that gives a central role to the evaluation of a person’s achievements and freedoms in terms of his or her actual ability to do the different things a person has reason to value doing or being” (Sen, 2009, p. 16). This approach highlights the importance of focusing on various dimensions of individuals’ freedom and asking alternative questions about what these individuals value when observations are made and required data are gathered for making evaluations or judgements (Robeyns, 2017). This suggests that the capability approach is concerned with the extent to which people can do what they consider valuable. Based on the definition of the capability approach, Robeyns (2017) highlights relevant questions that the approach generates. These questions include:

> *What are people really able to do and what kind of person are they able to be?* What people can do and be (their capabilities) and what are they actually achieving in terms of beings and doings (their functionings)? Do the envisioned institutions, practices and policies focus on people’s capabilities, that is, their opportunities to do what they value and be the kind of person they want to be? Do people have the same capabilities in life? Or do global economic structures, domestic policies or brute bad luck make people’s capabilities unequal, and if so, is that unfair and should we do something about that? Do development projects focus on expanding people’s capabilities, or do they have another public policy goal (such as economic growth), or are they merely serving the interests of a dominant group? (pp. 9-10)

These questions draw out the various dimensions that can be considered when the capability approach is used as a framework for analysing human conditions and individuals’ extent of freedom to achieve what is valued. For instance, this current study focuses on investigating the problem of migration for undocumented migrant children in South Africa. The purpose of this investigation is to develop an approach for ensuring equitable access to education for these

children in the given context. So, the capability approach provides the platform for questions such as: what are the structural limitations that prevent undocumented migrant children from accessing education in an equitable? An analysis of these limitations would thus move beyond surface-level explanations to more in-depth understandings that show how the limitations that constrain human flourishing.

To get an in-depth understanding of undocumented migrant children's equitable access to education in South Africa, the need to employ a social theory approach which accounts for *structural limitations*, including the political and policy dimensions, in the specific context, was necessary. Following from this, the capability approach (as given by Sen, 1999), with a link to education (see Unterhalter, 2003), is used as a lens to understand the factors impeding undocumented migrant children's access to schooling. The link between the capability approach and education is arguably strong and mutually beneficial (see Saito, 2003). According to Robeyns (2017),

> the capability approach is a conceptual framework, which can… be used to evaluate a range of values that draw on an assessment of people's wellbeing, such as inequality, poverty, changes in the wellbeing of persons or the average wellbeing of the members of a group. It can also be used as an evaluative tool… in developing countries. (p. 26)

This approach can also be extended to draw attention to strategies that can be developed to address the impeding factors affecting undocumented migrant children's access to education in South Africa. The reason for this is that the focus of the capability approach is embedded in what an individual desires to be, and what he or she can do effectively based on one's abilities and wider environment (Robeyns, 2005). Some key concepts illustrative of the capability approach include functionings, capabilities, and agency (Robeyns, 2017; Sen, 1999). For the purpose of this study, these concepts are explained and form the theoretical base of the research.

2.2.1 Functionings and capabilities

The concept of *functionings* as explained by Sen (1999) refers to the different things an individual deems important to take part in or be. These functionings form a major part of human life and are considered important in the field of social science (Robeyns, 2017). The things we consider important to do and be, give an understanding of who we are as humans. Significantly, some functionings are dependent on social contexts, while others are considered universal. The universal functionings include the basic needs of life (Robeyns, 2017), for instance, attending

primary school whereas the socially based functionings will be a person holding an advanced degree in an educational context.

Capability, according to Sen (1999), refers to a person's different combinations of functionings that are achievable. Hence, capability is "a kind of freedom: the substantive freedom to achieve alternative functioning combinations (or, less formally put, the freedom to achieve various lifestyles)" (Sen, 1999, p. 75). An instance of an individual's capability, considering the context of this study, is the freedom to achieve being an educated person. While one may desire to be educated, in realistic terms, not everyone achieves this. Robeyns (2017) notes that capability is thus reality, and real opportunities to fulfil different functionings.

Following from the above, the variation between both concepts is that the former is illustrative of what one is able to do, while the latter expresses what an individual can achieve. In line with this distinction, Sen (1999) argues that the capability or capabilities that an individual has are largely dependent on the structure of the society. He writes that "the capabilities that a person does actually have (and not merely theoretically enjoys) depend on the nature of social arrangements, which can be crucial for individual freedoms. And there the state and the society cannot escape responsibility" (Sen, 1999, p. 288). By implication, barriers to achieving set goals which are considered primary (basic education in this instance) are created by structures in place within different levels of the society.

2.2.2 Agency

Sen (1999) notes that problems including deprivation and unactualized basic needs still exist across countries, especially among those that have been historically disadvantaged (including migrants; see Kokkonen & Karlsson, 2017). These problems impede the chance of achieving sustained or sustainable lives. However, to tackle the problems, there is a need to exercise individual agency. Sen (1999) explains agency by describing who an agent is: "the term 'agent' is someone who acts and brings about change, and whose achievements can be judged in terms of her own values and objectives, whether or not we assess them in terms of some external criteria as well" (p. 19). Sen (1999) argues that to overcome the problems of ever-present constraints (public policies, social associations), it is important to view individual freedom as a social commitment. Individual freedom also includes the removal of different forms of "unfreedoms" (Sen, 1999, p. xii) which refer to events or circumstances caused by structures

within society that limit the chance of equitable opportunities for vulnerable groups. This argument is key in Sen's (1999) capability approach. Thus, the approach can be used in describing the realities of undocumented migrant children in countries that have contradictory policies (see chapter 1, section 1.4). Because of existing legal contradictions, the legal assertions and aspirations are not sufficient to guarantee undocumented migrant children's access to education. The capability approach also holds the principle of each individual "as a moral equal" (Robeyns, 2017, p. 57). This explanation of the individual looks at developing, in this instance, undocumented migrant children within South Africa by consciously expanding their real freedom to take part in fundamentals for their human flourishing. According to Sen (1999), individuals are able to flourish when there is an enabling environment for basic education, amongst other fundamental needs, like good healthcare. Although there is a focus on individuals the capability approach does not limit the concept of agency to only individuals (Robeyns, 2017). Beyond individual agency, the capability approach can allow for engagement with collective forms of agency. For instance, in the context of participatory action research that involves the group of participants being researched, collective agency is relevant for ensuring social change (Pelenc et al., 2015).

2.2.3 The capability approach within education

In expressing the use of the capability approach in understanding educational phenomena, Unterhalter (2003) notes that schools and the schooling system do not exist in isolation from society and from part of its structure. Refining the way education is understood under the capability approach, Unterhalter (2003) argues that "political and social analyses are crucial to make the capability approach 'real' and […] the capability approach without an explicit acknowledgement of the salience of social theories of inequality lays itself open to becoming a hollow mantra" (p. 18). This view follows from Sen's (1999) focus on the need to integrate social, political as well as economic activities to understand the role of each of these structures in the promotion of equal opportunities. Drawing from Unterhalter's (2003) stance, the need to understand, at its roots, the factors that steadily affect undocumented migrant children's access to education, especially regarding their migration into South Africa, is urgent. For, Sen (1999) notes that although an individual is capable of being free, public policy can serve as a determent to fulfilling their capabilities or what they value and have reason to value. This approach thus allowed for understanding the different possible ways through which undocumented migrant children can access education. The framework also offers the chance for the problem of

inequitable access to education in South Africa to be interrogated. Worth noting is that the approach this study has developed is concerned with questions of rights, access, and inclusion/exclusion at a social (macro level), and not with questions of how undocumented migrant children are accommodated in the classroom and pedagogical practices.

Furthermore, according to Hart and Brando (2018), the capability approach provides a framework to consider issues of access to schooling. This is plausible because of the capability approach's recognition of individual agency and human diversity which is repeatedly noted within the targets of the SDG 4. Also, from their study, Hart and Brando (2018) report that although individuals are able to achieve what they value through their agencies, the functionings of these individuals are dependent on their relative advantages and disadvantages in society. Beyond one's relative advantage and disadvantage, in terms of one's capability to be educated, the actions of others can serve as a constraint to this capability. Hence, undocumented migrant children require the structures of society within South Africa to protect their freedom to access education. In quite specific terms, Hart and Brando (2018) express the need for an active fostering of educational conditions "to support the development of children's freedoms, competencies and achievements" (p. 303). The capability approach offers a robust framework incorporating notions of social justice, in thinking about education in very different and unequal social settings, which future conceptual and empirical work will help illuminate.

Some previous studies conducted in the South African context have engaged with the relevance of the capability approach within education. For instance, in a qualitative study, Mkwananzi and Wilson-Strydom (2018) considered the multi-layered disadvantages and educational aspirations of marginalised (migrant) youth in South Africa. The authors conclude by discussing how the capability approach might be used to influence social and educational policy in marginalised communities. In another study, using a narrative method, it was found that from the experiences and lives of the youth participants, collective capabilities could possibly address various kinds of marginalisation and benefit local communities (Mkwananzi & Cin, 2020). However, these studies do not include a discussion of the concept of equity which is what this thesis offers.

2.2.4 Rawls and Sen: Beyond social justice

In chapter 1 (section 1.6), I discussed Rawls' explanation of equity from the perspective of 'justice as fairness'. In this sub-section, I draw out a distinction between Rawls' theory of social

justice and Sen's capability approach. This distinction is important because it highlights the significance of the capability approach and the need for combined approach to equity.

Both Rawls and Sen agree on the idea that fairness is central to social justice and that the fair chance be given to individuals who are marginalised. However, the capability approach is a critique of Rawls' theory of justice (see M'Mboga Akala, 2019; Robeyns, 2008). One of Sen's major critiques of Rawls' idea is that primary goods cannot be considered without highlighting the role of individual differences (Sen, 1979). For Rawls, primary goods refer to "what persons need in their status as free and equal citizens, and as normal and fully cooperating members of society over a complete life" (1999, p. xiii). Primary goods include rights, opportunities, income and wealth, self-respect. Sen argues that the difference in people's abilities to convert these goods into what they can be, and do, cannot be adequately explained by primary goods. Instead, Sen (1999) argues that the focus should be on people's beings and doings (on their functional abilities). An individual's real opportunities or possibilities to pursue a life plan are influenced not only by the primary goods available, but also by the different factors that determine the extent to which one can transform these primary goods into valuable states of being and doing (Robeyns, 2008; Sen, 1999). This means that context is important in addressing issues of justice, and interaction with specific limiting factors is necessary for determining social justice. The capability approach is thus aims to go beyond Rawls' theory of social justice, because it is based on possibilities in the actual world that serve specific goals and give people real freedoms to pursue the goals they value, and have good reason to have (Sen, 2009). Sen (2009b) specifically notes:

> The theory of justice, which is most widely used now, and which has served as the point of departure for this work [Sen's idea of justice] is, of course, the theory of *'justice as fairness'* presented by John Rawls. Even though Rawls's broad political analysis has many other elements, his justice as fairness has the characteristics of being directly concerned *only* with the identification of just [ideal] institutions. (p. 411, emphasis added)

This means that there is a need to assess what happens in reality in societies, rather than focus on just identifying 'perfect' or the right institutions that have the 'perfect' social arrangements.

Despite the Sen's critique of Rawls' idea on primary goods, Robeyns (2008) notes that:

> in order to see in what respect, they truly differ, each theory needs to be further developed in opposite directions: the capability approach requires more theoretical elaboration and

> justification, while justice as fairness has to be developed to show how it would deal with questions of justice in non-ideal circumstances. (p. 399)

This means that while the capability approach requires more theoretical elaboration, Rawls' idea on 'justice as fairness' (which I have explained as equity in chapter 1, section 1.6) requires more evidence-based explanation within specific contexts. On this point, I argue that it is important to combine the capability approach with a detailed explanation of equity. Based on the capability approach's interaction with people's real opportunities to transform primary goods into actual valuable states, I note that it is useful for considering contextualised understandings of what equity entails. Again, while the capability approach highlights the extent to which individuals can enjoy the freedom to do what they consider valuable, the structure of the society (in terms of various levels of society: policy and politics, resource allocation and distribution, and recognition of individual and communal agency) plays a fundamental role in determining what people value and how they engage with it (see Robeyns, 2008).

2.2.5 Kant and Sen:

Cornell (2015), in her review of Sen's (2015) *The Idea of Justice*, shows Sen's indebtedness to Immanuel Kant. This suggests an important, existing relationship between the work of Kant, and Sen's explanation of justice and the capability approach. Here, I engage with some of these ideas and highlight how they relate to equity, the capability approach and by extension, to the current study's conceptual framework.

Immanuel Kant writes from a moral philosophical perspective about the principles of ethics. For him, the concept of the categorical imperative explains this moral perspective. Kant (1994) writes that the categorical imperative is to

> act only on a maxim [rule] that you can at the same time will to become a universal law and this is an 'imperative': not a statement of fact, but a directive to act in a certain way, which also forbids whatever is inconsistent with that action and it is 'categorical' or unqualified as opposed to hypothetical or conditional. (p. xvii, emphasis as in original)

This means that whatever you accept to be moral must be universalizable and acceptable to everyone, without exception. Here, what is clear is that Kant's perspective on how humans should be treated, and what counts as just, must be applied to everyone, regardless of any discriminating factor. For instance, in the South African context, that which is considered 'acceptable' (because it is morally correct) for South African citizens, must also be 'acceptable'

for undocumented migrants. What is acceptable entails that which is just and right. However, if this application is discriminatory (i.e., qualified as opposed to unqualified) and nationals receive an essential good that migrants are denied, then it is unjust and morally wrong.

It is important to understand that justice, from this Kantian perspective, does not exclude groups of people because of their backgrounds or other limiting factors. Justice recognises individuals as ends in themselves; this is respect for the dignity of all. Along this line, the categorical imperative states:

> Act so as to treat humanity in oneself and others only as an end in itself, and never merely as a means. To treat a person merely as a means is not to treat him as a human being – that is a self-determining rational agent – but as a 'thing' without purposes of its own, like the proverbial doormat. (Kant, 1994, p. xix)

By implication, rules or policies that fail to recognise individuals as human beings are in themselves morally wrong. It then follows that the South African State, directed by the Constitution and Bill of Rights (The Constitution of the Republic of South Africa No. 108, 1996), should be in the position to accurately make universal rules and policies that serve to respect the inherent value and dignity of all individuals within it. Policies must provide opportunities for individuals to be truly human and not 'things', and so, uphold their inherent right to be free. For example, Allais (2015) argues that basic needs must be provided by the State so that individuals do not become beggars who are dependent on other individuals for freedom to achieve basic functionings. Although Allais (2015) is concerned with beggars, this parallels the context of my study in that, undocumented migrant children 'beg' to be able to attend school. Allais (2015) argues that the South African State has failed to recognise and fulfil its duty to uphold human dignity, because it allows people to become beggars. This is similar to the case of undocumented migrant children and their access to education.

What is currently occurring is that benevolent institutions (such as NGOs, like in this study) try to address the public problem of lack of equitable access to education through private interventions (see Allais, 2015). So, education, which should be considered a basic capability and a public good, becomes dependent on the benevolence of individuals or groups of people. This represents a moral wrong and injustice to undocumented migrant children. Because education is a public problem, NGOs cannot solve the problem alone. It is necessary for the government, through policies and resources, to make permanent, long-lasting changes that recognise the inherent dignity of these children. Social arrangements to ensure undocumented

migrant children can access education must be considered and implemented. Failure to do this is a failure to follow the categorical imperative and a failure to ensure that every human being can flourish.

Sen develops the Kantian idea of the categorical imperative through the capability approach. He does this by explaining *how* individuals can achieve their 'ends', and so, be valued as humans through being provided opportunities to flourish. The provision of opportunities requires top-level approaches or interventions. Supporting this Robeyns (2017) writes:

> One could argue, however, that the capability approach does not focus entirely on ends, but rather on the question of whether a person is being put in the conditions in which she can pursue her ultimate ends. For example, being able to read could be seen as a means rather than an end in itself, since people's ultimate ends will be more specific, such as reading street signs, or the newspaper. It is therefore somewhat more precise to say that the capability approach focuses on people's ends in terms of beings and doings expressed in general terms: like being literate. (p. 49)

This means that while the capability approach recognises and agrees with Kant's moral philosophical perspective on people being respected, it further draws attention to how their ends can be achieved. What is highlighted is the need for specific consideration to be made in the South African context for how undocumented migrant children's educational right can be ensured. I argue that there must be an understanding of equity (from varied levels of society) alongside the capability approach to develop specific considerations from which access to education can be ensured. Failure to develop such tailor-made considerations will leave South Africa in a position where being educated cannot be considered a universalised functioning, which is a fundamental violation of human dignity.

2.3 The study's conceptual framework

A conceptual framework is defined as "a graphical or narrative description of the main elements of a given or emergent research problem" (Miles & Huberman, 1994, p. 18). Also, conceptual frameworks are open for scrutiny and so, create platforms for critical engagement and debate about a given field or scope of study (du Plessis, 2018). By extension, the conceptual framework this study has developed and used is open for critical engagement, and for developing ideas centred around equitable access to education for undocumented migrant

children as well as children in vulnerable positions[10] across the world. In establishing the purpose of this study, the capability approach has been further explained using ideas from Unterhalter's (2009) view of equity from the top, middle and bottom. It is also important to note, as stated earlier (see section 2.1) that, although only in preliminary form, Unterhalter (2009; 2019) developed the forms of equity directly as an engagement with the capability approach. However, there is room for a more substantive and robust discussion of the combination of the three forms of equity with the capability approach which this thesis develops. The concepts of functionings, capabilities and agency from the capability approach work well alongside the three forms of equity (see section 2.1) and form the conceptual framework for this study. These concepts have been defined in the previous section and here, the relationship between them is put forward in line with the study to describe the study's conceptual framework.

2.3.1 Functionings and equity from the bottom:

The link between Sen's (1999) functionings and Unterhalter's (2009) idea of equity from the bottom is apparent in how individuals are able to participate and do what they are able to do (see figure 2.1, below, showing the blue arrow matching with individual functionings). Thinking about this link, while Sen explains functionings as "an achievement" (Sen, 1987), Unterhalter (2009) notes that individuals are able to *achieve* what they want through the recognition of personal differences. These differences refer to specific circumstances experienced by various individuals. By implication, that which undocumented migrant children are able to achieve is linked closely to their differences such as in legal status and socio-economic status. However, a focus on only functionings and equity from below does not guarantee equitable access to opportunities, and specifically, access to education for undocumented migrant children within South Africa.

2.3.2 Capabilities and equity from the top and middle:

In explaining the relationship between capabilities (what one is free to do) and equity from the top and middle, it is significant to note where they intersect. This intersection shows the fact that the structures within societies are what determine the things an individual can do. The green and red arrows in figure 2.1 illustrate the link between the two levels of equity to

[10] These include displaced children, children with physical impairments, stateless children, and those at risk of becoming stateless, the girl child, and refugee children.

capabilities. At the level of equity from the top, frameworks and policies that are in existence determine the capabilities of individuals. For equity from the middle, the distribution of needed resources determines the capabilities of individuals to flourish. Hence, the importance of what makes up frameworks and how resources are distributed cannot be overemphasised when considering individuals' substantive freedom to pursue different things they want to do. However, the consideration of only frameworks and the distribution of resources is not sufficient to ensure the equitable access to opportunities, especially education in the context of this study. What is also required is a focus on agency.

2.3.3 Agency and equity from the bottom:

According to Marginson (2011), equity from the bottom or below relates to the concept of agency within the capability approach (as depicted in figure 2.1 using a red arrow to show the link). This is plausible because agency allows individuals to gain satisfaction based on their values and beliefs (Sen, 1999). This links to what Unterhalter (2009) explains within equity from the bottom when she argues for a space for dialogue through the release of voices based on access to knowledge about their possibilities, and fair negotiations that are indicated by a balanced outcome for those involved. For the purpose of this study, agency is explained in terms of the microsocial level. Hence, when thinking about the chance for undocumented migrant children to exercise agency, factors such as the opportunity to dialogue and reach agreements cannot be ignored. However, although the use of agency and so, equity from the bottom are effective parts to ensuring equity and increasing one's capability, they are not sufficient in ensuring equity for all. For, as it has been noted, agency is influenced by the structures within the society (see Robeyns, 2017).

2.3.4 Relevance of the forms of equity and the capability approach to equitable access to education for undocumented migrant children in South Africa:

Each form of equity on its own, is not sufficient to ensure equitable access or equal opportunities for *all*. Also, ensuring that individuals gain freedom to achieve what they want to cannot be viewed from recognising only capabilities. Hence, the need to integrate these ideas is significant in explaining equitable access to education. In establishing the context and purpose of this study – which is aimed at an approach to explaining equitable access to education for undocumented migrant children in South Africa – a conceptual framework that pulls together the ideas of the capability approach, and the three levels of equity has been

generated. These concepts are relevant to the study because to develop an approach to ensuring the equitable access of undocumented migrant children to education, various levels of structural limitations as well as available opportunities must be considered. Moreover, using this framework allows for an in-depth understanding of the possible ways through which the idea of equitable access to education can be considered for undocumented migrant children within South Africa.

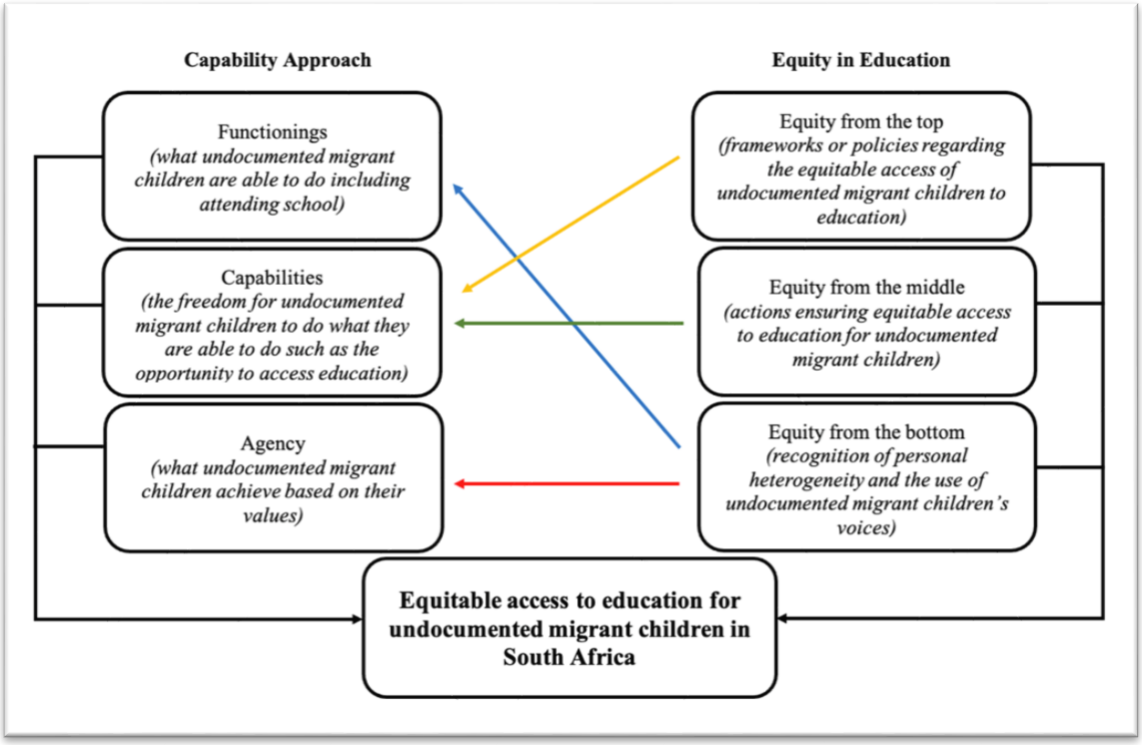


Figure 2.1: Conceptual framework for the study adapted from the works of Sen (1999); Robeyns (2017); Unterhalter (2009) and Marginsson, (2011).

In conclusion, I have presented the conceptual framework that was used for the purpose of this study in this chapter. The framework combined the capability approach (given by Sen, 1999) with the three-fold explanation of equity given by Unterhalter (2009). This conceptual framework supports the central thesis, which is to develop an approach to ensuring equitable access to education for undocumented migrant children in South Africa. Using these as the framework for this study worked alongside qualitative methods which allowed the researcher to gain an in-depth understanding of the different factors that need to be considered in developing an integrated approach for equitable access to education. The findings in this thesis show the value in using Sen's capability approach and Unterhalter's model of equity in

education combined to explore equitable access to education for undocumented migrant children. It does this by suggesting an integration of key concepts from the capability approach with the different levels of equity.

CHAPTER THREE: RESEARCH METHODS

The complexities of validating qualitative research need not be due to a weakness of qualitative methods, but on the contrary, may rest upon their extraordinary power to reflect and conceptualise the nature of the phenomenon investigated, to capture the complexity of the social reality. (Kvale, 1996, p. 224)

This chapter presents an explanation of the phenomenological methodology used for this study. The significance of the research methods employed lies in the need to engage with the study's central thesis. Accordingly, I provide explanations of the research philosophy, the study design, as well as the study setting. I also include a description of the sampling strategy and sample size. Then, I outline the characteristics of all those who participated in the study within their different groups. Thereafter, the methods used for data collection, as well as data analysis are also presented. I also highlight the ethical considerations and quality criteria considered in this research. Reflexivity and positionality during data collection and analysis are discussed too. A brief conclusion is included to end the chapter.

3.1 Research philosophy

This study was guided by certain interpretivist, phenomenological philosophical assumptions, which informed the research process (Creswell, 2013; Denzin & Lincoln, 2011). Also referred to as a research paradigm, Creswell (2013) notes that the philosophical assumption made by researchers includes ontological perspectives (the nature of reality); epistemological perspectives (how I explain reality and what I know); axiological perspectives (my values and how I apply them to research); and methodological perspectives (the way I conduct my research). Together, these elements form the paradigm through which researchers base the nature of their studies.

As indicated, the research philosophy that underpins this study is interpretivism. The interpretivist paradigm refers to a subjective understanding of truth (Denzin & Lincoln, 2011). Hence, with this research paradigm, social constructs of what reality is, for various groups of people, especially those who have been marginalised, is understood as subjective and context dependent (Andrzejewski et al., 2019). Here, McChesney and Aldridge (2019) explain that "the knowledge arising from interpretivist research is integrally linked to the participants and the

context of the research, meaning that the products of interpretivist research are not universally applicable theories [but]… rather, rich, and contextually situated understandings" (p. 227). By extension, interpretivism allows for *engagement* with the *lived experiences* of groups of people in *specific* contexts. Along this line, this study specifically used a phenomenological methodology (see Moustakas, 1994) to engage in an in-depth understanding of the experiences of undocumented migrant children in South Africa, as it relates to their chance of equitable access to education.

Phenomenology, emerging from the work of Edmund Husserl, refers to going back to the "things themselves" and "and reaching a transcendental state of freshness and openness, a readiness to see in an unfettered way, not threatened by the customs, beliefs, and prejudices of normal science, by the habits of the natural world or by knowledge based on unreflected everyday experience" (Moustakas, 1994, p. 38). In phenomenological research, there is a need to set aside presumptions and focus on specific concepts in a fresh and open-minded manner. Thereafter, further questions or problems which guide the study are drafted, and findings are made which will serve as the basis for future studies and reflection (see Moustakas, 1994). Important in the phenomenological approach is the *setting aside of presumptions* which Moustakas (1994) indicates can be difficult to realise. However, through phenomenological bracketing (the *epoche* [Moustakas, 1994, p. 33]) the researcher can move toward the state of perceiving concepts and phenomena as new and without presumptions. This implies that in following the methodology of phenomenology for the purpose of this study, I have attempted to set aside my prior understandings and biases and carry out my research with an open mind.

Another significant aspect of this methodology is the need to gather "variations of perceptions" (Moustakas, 1994, p. 33) on the phenomena under study. As detailed in this chapter under section 3.5, I collected data from different groups of participants who directly experience difficulties in equitably accessing education as undocumented migrants within South Africa. The idea of triangulation is thus brought forward. Although I explain this concept in section 3.7, here I note that triangulation involves using multiple methods of data collection as well as multiple sources of data to ensure trustworthiness of qualitative research (see Merriam & Tisdell, 2015). Gathering different perceptions also highlights the collection of rich data within a given context. The idea of rich, contextual understandings entails that "[a] description […] becomes *thick*... if it offers direct connection to cultural theory and scientific knowledge" (Stake, 2010, p. 49). Thus, a detailed information, as well as the in-depth explanation of

concepts and occurrences are provided. Additionally, Geertz (1973) highlights that interpretation of occurrences or phenomenon is dependent on the theory through which the interpretation occurs. This means that the theoretical or conceptual framework used to *explain* the data collected is significant and determines the manner through which meaning is made. In specific terms, for this study, the capability approach combined with the three-fold explanation of equity forms the conceptual framework (see chapter 2). The use of this framework provides an opportunity to explain how equitable access to education can be ensured for undocumented migrant children in South Africa, by interpreting the lived experiences of the identified group through a social reality perspective. To utilise the framework, the study has employed tools for data collection and analysis that allow for a thick description and so, a phenomenological methodology. Hence, the study's conceptual framework allows for the thick description and explanation of the study's objectives interpretations.

In summary, my philosophical assumption, being an interpretivist worldview, afforded me the opportunity to focus on the methodology of phenomenology as a process that allows for meaning making. It also directed my study design, as well as the methods used for data collection and analysis. Thus, this approach considers the specificity or context of individuals, their experiences and lifeworld. In keeping with this, the study was based on a qualitative design, through the use of focus group discussions (FGDs) and individual semi-structured interview techniques. The criteria for the quality of this study (including data collected and its analysis) include confirmability, trustworthiness, transferability (dependent on the similarity of the study to another given context) and credibility (Denzin & Lincoln, 2011).

3.2 Study design

Considering my philosophical assumption and methodology, this study employed a qualitative design with multiple interview techniques for the different groups of participants (see section 3.5 for a description of the participants). Creswell (2013) notes that the qualitative design draws from an interpretivist philosophical assumption (under which phenomenology is incorporated) which aims to make meaning of phenomena in a given context. In qualitative research design therefore, the research process is significant (see Creswell, 2013; Merriam & Tisdell, 2015). To make meaning, I collected data "in a natural setting sensitive to the people and places under study, and data analysis [was] both inductive and deductive", and "patterns or themes" were established (Creswell, 2013, p. 44).

The importance of the chosen study design is to ensure that there is a link across the problem statement highlighted, objectives of the study, and the research questions sought to answer [see the introduction] (Creswell, 2009). Along these lines, the relevance of the qualitative approach to this study is indicated under the next sub-heading.

3.2.1 Relevance of a qualitative approach to the study

The relevance of the qualitative approach to this study draws from the features of the design, as well as the specific objectives that this study focuses on. Beginning with some of the features of the approach, Creswell (2013) states that these include:

- *Holistic account:* Qualitative researchers aim to establish a detailed picture of the phenomena under study. Here the purpose is to identify complex, and in-depth perspectives that interact to give meaning to specific situations.
- *Participants' meanings:* The overall purpose of the qualitative study design is to make meaning, provided by participants, of the concept, or issue being considered. This means that it is not the researcher's pre-determined meaning or meaning already provided from extant literature but meaning which is derived from the participants.
- *Emergent design:* The research process or methods used in qualitative research are not fixed. There remains a possibility of the process being changed as the researcher begins to conduct the study or visit the field.
- *Reflexivity:* Within a qualitative study design, researchers state their position (background including cultural experiences, work experiences) and how it informs the interpretation of the information gathered in the study.
- *Natural setting:* Within a qualitative design, data is usually collected from where the participants experience the issue being studied.
- *Researcher as key instrument:* Qualitative researchers usually collect data by themselves through different techniques, including interviewing participants and observing behaviour. So, while the various techniques might be used, the researcher remains the key instrument of data collection.
- *Multiple sources of data:* In a qualitative study, data is collected from more than one source, and using different techniques.

These features are evident throughout this study and in the writing up of this thesis. To reiterate, this current study aimed to explore the opportunities and problems migrant children experience in relation to education. With this, an explanation regarding access to education for

undocumented migrant children from an equity viewpoint in South Africa is developed. Hence, the relevance of a qualitative design to the study's objectives which is further elaborated on below.

This study focused on an in-depth exploration of access to education, from an equity viewpoint, drawing on the lived experiences of undocumented migrant children, their families and support networks within Johannesburg, South Africa. By implication, there was a need to engage in a process that allows for meaning making. With this process, engagement with participant voices within their natural settings, clarifying my position with regards to the purpose of the research, and contextualised methods of data collection were possible. The use of qualitative design and methods ensured a rigorous research process and the triangulation of the data, which was collected, as well as analysed.

The use of a qualitative design allowed me to approach this study from a phenomenological point of view. Table 3.1 below, shows the features of a phenomenological viewpoint in the process of qualitative research. In the sub-sections that follow, I describe the setting of the study, as well as the study participants.

Table 3.1: Features of a phenomenological approach to qualitative research (Adapted from Creswell, 2013, pp. 104-105)	
Research Focus	Understanding the essence of the experience
Type of Research Need Suited for	Needing to describe the essence of a lived phenomenon
Field of Study	Drawing from psychology, philosophy, and education
Unit of Analysis	Studying several individuals who have shared the experience
Methods of Data Collection	Using primarily interviews with individuals, although documents, observations may also be considered.
Strategies of Data Analysis	Analysing data for significant statements, meaning units, textual and structural description, and the description of essence.
The Final Written Report	Describing the essence of the experience.

3.3 Study setting

3.3.1 Overview of Johannesburg/ Hillbrow/ Yeoville

This study was conducted in the eastern region of the Johannesburg area in the Gauteng province of South Africa. The eastern region of Johannesburg has close to, or in it, the commonly known suburbs for migrants in Johannesburg, including Hillbrow and Yeoville. These areas have a long-established migrant population (see Bénit-Gbaffou, 2014; International Organisation for Migration [IOM], 2021; Moyo, 2017; Roux, 2018). Figure 3.1 below shows the Eastern region of the city (Southern Domain Online Travel Guides, n.d.). A registered NGO in the region that specifically deals with bridging the educational gap for migrant children and their parents, or guardians, within the Johannesburg area was approached. Permission was sought from the NGO's governing body to contact and interview participants for the study.

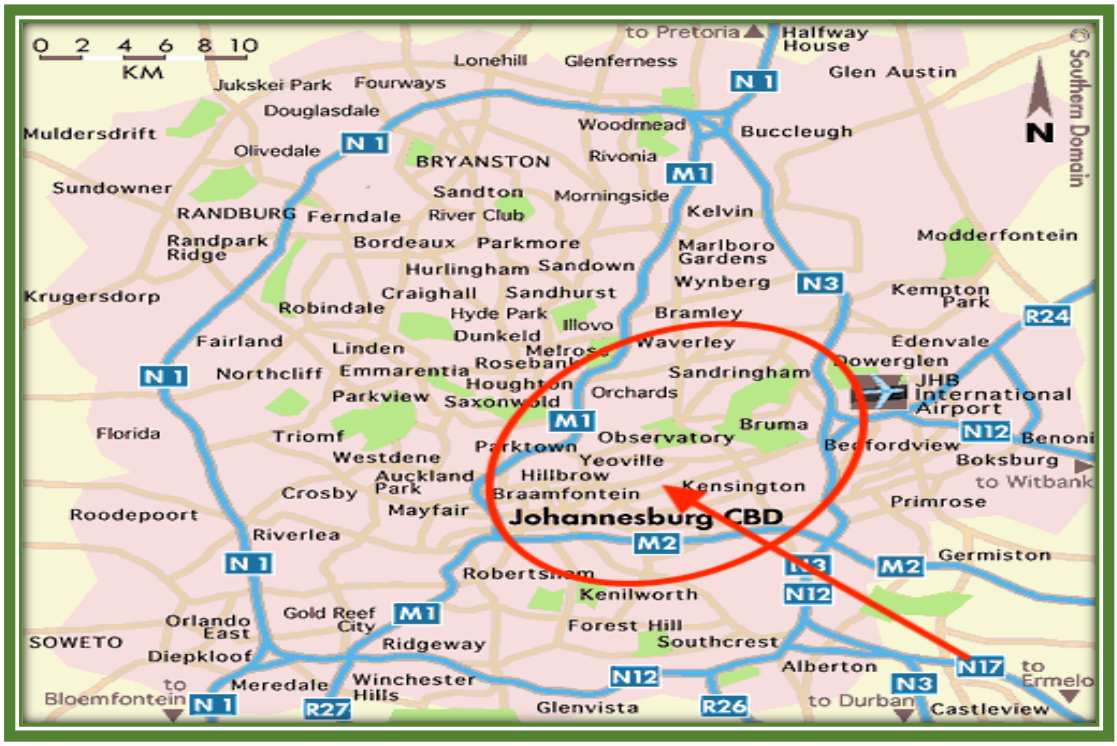


Figure 3.1: Map of Johannesburg adapted from Google images adapted from Southern Domain Online Travel Guides, n.d.

3.3.2 Bridge Option Project[11]

The Project was established in 2007 by members of the International Marist Brothers Community. Specifically started by a College through dialogue with the surrounding communities (comprising of Yeoville, Bertrams, Bezhuidenhout Valley, Hillbrow, Berea,

[11] The Bridge Option Project is a pseudonym for the NGO where I conducted the study. The NGO has been anonymised for ethical reasons. Hereafter, I refer to the NGO as the Project.

Lorentzville, Observatory, and Bellevue) where the school is situated, the Project has since expanded, and is hosted by two more Catholic Mission Schools. During the dialogue process, it became apparent that the struggles of children in the identified migrant communities included deprivation, exclusion, incessant xenophobic attacks, as well as the lack of legal documentation to remain in South Africa. Following the identification of these struggles, one of the colleges also found that the children faced problems in accessing education, despite the country's commitment to ensuring the fulfilment of the right to education for the child. As a result of these findings, the Project was established; the aims of the Project include:

- To provide safe, quality education to primary school refugee children who cannot access public education.
- To build the children's resilience and prepare them to leave the project and enter into mainstream schools.
- To provide employment and professional development for refugee teachers.
- To advocate for the rights of refugee children.

At the time of data collection in 2021, during the school year, undocumented children who attend the Project attended school from 15h00 until 18h00. The Project provides lunch with snacks (fruits, biscuits) to assist with the problem of access to food for the children.[12] Uniforms (including school shoes), books and stationery are provided for the children. The Project also picks the children up from different locations (specified bus-stops) and drops them after school hours.[13] At the Project, children are taught Mathematics, English, and Life Skills. These subjects are taught using the South African curriculum. Children with reading difficulties, as well as learning difficulties, are supported by the host schools' educational psychologists on a weekly basis (Personal Communication, August 13, 2021). The Project also organises extra-curricular activities, such as soccer and judo lessons for the children. The sampling strategy and sample size used for the selection of participants is explained in the section that follows.

3.4 Sampling strategy and sample size

The target population for this study consisted of all staff members at the Project, children who attend the Project and their parents, Gauteng Department of Education (GDE) staff members

[12] Throughout my time at the Project, children received lunch (freshly cooked food) every school day with a fruit, biscuit, and water or milk. The Project has a feeding timetable used to ensure variety is given on a weekly basis.
[13] The children were picked up from specified bus-stops closest to their homes. Children were picked up from as far as Turffontein and Kensington in Johannesburg and dropped off.

who deal with undocumented migrant children and their schooling, and staff members at the South African Human Rights Commission (SAHRC) who focus on education and related research. From this study population, the sampling strategy that was used to select the Non-Governmental Organisation (NGO) and participants is explained below.

Purposive sampling:

The Project was purposefully selected (Creswell, 2013; Maxwell, 1996) for the study. According to Creswell (2013), purposive sampling is a type of non-probability sampling technique which is usually associated with qualitative research, and the group of participants are chosen based on clear inclusion criteria. Maxwell (1996) notes that purposive sampling is used to strategically select participants in specific settings or positions to give relevant information that will not be attained from other choices. Hence, the Project was selected because it is located in the Eastern region of Johannesburg, and it is well-known for bridging the educational gap for undocumented migrant children who are unable to access the public schooling system in Johannesburg, South Africa.

Convenience sampling technique:

This sampling technique involves selecting participants who are easily accessible and available to participate (Etikan et al., 2016). This technique is known to assist researchers in overcoming limitations that may be linked to the selection of participants. According to Etikan et al. (2016), convenience sampling is useful where individuals from the *target population* that meet certain realistic criteria, including being willing to take part and are available to do so, are included for the purpose of the research. For this study, all the participants that were interviewed were selected based on convenience and meeting the inclusion criteria. The criterion used for selecting participants was based on the fact that the Project staff members and children who attend the Project and their parents understand the social environment in which the children reside. They were able to give detailed and in-depth explanations on the impact of migration on their access to education, in an equitable manner. GDE officials who deal with undocumented migrant children, and SAHRC staff who deal with education also understand the impact of migration on these children's chance to equitably access education in South Africa.

Sample size

For a phenomenological approach, the number of participants can range from 1 (see Dukes, 1984) to even 325 (see Polkinghorne, 1989). An important point to consider for the sample size

of a qualitative design is the need to collect extensive, in-depth detail about the phenomenon being studied, and this can influence the participant sample size (Creswell, 2013). This means that for each group of participants, what remains significant is the detailed information attained from them regarding the issues under consideration. For this current study, a total of 45 participants made up the sample size. Table 3.2 indicates the different groups of participants, and the specific numbers under each group. Data collected from the participants represented different viewpoints on the issue of equitable access to education for undocumented migrant children in Johannesburg, South Africa. The participants were only contacted on receipt of ethical clearance, permission from the institutions, and suitable appointments.

Table 3.2: Study participants	
Group of Participants	**No. of Participants (Total of 45)**
Undocumented migrant children	19
Parents of undocumented migrant children	11
Professionals:	
Staff Members at the Project	8
Staff Members at the South African Human Rights Commission (SAHRC)	2
Gauteng Department of Education (GDE) Officials	5

In the section that follows, I outline the characteristics of all those who participated in the study within their different groups.

3.5 Socio-demographic characteristics of the study's participants

This study's participants comprised of three groups; undocumented migrant children; parents of undocumented migrant children; and professionals (staff members of the Project, Gauteng Department of Education [GDE] officials, and South African Human Rights [SAHRC] staff members working on education). The total number of participants across the groups was forty-five (n=45).

3.5.1 *The undocumented migrant children*

Nineteen undocumented migrant children participated (n=19). These children indicated their countries of origin as Zimbabwe, Democratic Republic of Congo, Burundi, Nigeria, and Malawi. One significant characteristic, which is important for the context of this study, is that

most of the children mentioned that they were born in South Africa. This background finding is similar to Tigere's (2015) position published by the Southern African Legal Information Institute (SAFLII). Also, in May 2022, an article published in the *Mail & Guardian* highlighted the continued increase in the number of children born to undocumented migrant parents in South Africa (Phiri, 2022). During data collection, when I asked the children whether any of them would like to share how they arrived South Africa, one of the children in the first Focus Group Discussion (FGD), session 2 shouted:

> *"Me, I was born here!" (Children FGD 1, Session 2).*

In addition, when I asked the children where they lived, areas including Hillbrow, Yeoville, Orange Grove, Berea, and as far as Cresta were mentioned. Apart from Cresta (located in Randburg, North-western region of Johannesburg), these areas are located in the eastern region of Johannesburg (see chapter 3, section 3.3.1) which is commonly known for its large migrant population (see Bénit-Gbaffou, 2014; International Organisation for Migration [IOM], 2021; Moyo, 2017; Roux, 2018). The children, aged between 8 and 10 years old, were in Grade 3 at the Project at the time of the data collection. Although the children were within this age bracket, they seemed to have had so many experiences in relation to their being 'foreign', and not being able to attend school like their 'South African' peers. In particular, one of the children in the second session of the third FGD, in explaining her recent experience with other children who attend school during the day said,

> *Yes, look at this girl, she is going in the night like this, they'll be talking to each other, saying bad things about other children that go [to school] in the afternoon (Children FGD 3, Session 2).*

From this quotation is clear that the undocumented migrant children are aware of xenophobic sentiments through being made to feel 'different'. I also note that such sentiments highlight the nationalist perspective on migration which has been discussed in chapter 1 (section 1. 3) and will be further explained in relation to the data in the chapters that follow.

Table 3.3 below provides a summary of the socio-demographic characteristics of the undocumented migrant children who took part in the study.

Table 3.3: Socio-demographic characteristics of the undocumented migrant children	
	(n=19)
Country of Origin	
Democratic Republic of Congo (DRC)	3
Malawi	1
Zimbabwe	13
Nigeria	1
Burundi	1
Age	
8 years old	3
9 years old	9
10 years old	7
Country of Birth	
South Africa	12
Outside South Africa	7
Resident Area	
Hillbrow	9
Yeoville	6
Orange Grove	2
Berea	1
Cresta	1

3.5.2 *Parents of undocumented migrant children*

Eleven parents of undocumented migrant participated in this study (n=11). Their countries of origin include Zimbabwe, Uganda, Nigeria, Democratic Republic of Congo (DRC), and Mozambique. An important characteristic of the parent participants was that most of them had been in South Africa between eleven and twenty years, as at the time of data collection in 2021.

"I'm a parent in three to six. I've been in South Africa for almost 20 years" (Parent 11).

"2008, 9, 10, 11, 12... twelve years now…" (Parent 3).

In further explaining how long they had been in South Africa, some of the parents mentioned that they arrived South Africa alone. One of the parents said,

> *"I came in 2007… Yeah, I came here by myself and then stayed with a friend for just a little bit of time. And then I got a job and then I moved on my own place and then, yeah" (Parent 7).*

Additionally, all the parents interviewed had at least two (2) children, and mostly resided in Hillbrow, Yeoville, Berea, and the Turffontein areas of Johannesburg. This demographic characteristic resonates with other studies that have noted that most of these areas in Johannesburg are densely populated with migrant populations (see Bénit-Gbaffou, 2014; International Organisation for Migration [IOM], 2021; Moyo, 2017; Roux, 2018). Another important finding about the background of the parents was that at the time of data collection, some of them had either just lost their *informal* form of employment (Gordon, 2022) that they had, due to the Covid-19 pandemic lockdown restrictions and looting attacks in 2021, while others had indicated that their jobs were not stable. Significant is that these informal jobs taken up by undocumented migrant parents do not generally algin with the expectations of the Decent Work Framework as drafted by the International Labour Office [ILO] (2010).[14] In this current study, some of the parents said,

> *"Now I'm not doing anything, I'm just at home since that time for looting, I'm just at home, yeah" (Parent 9).*

> *"With jobs it has been on and off" (Parent 6).*

Here, it is important for me to note that an issue related to informal employment is the difficulty in obtaining legal documentation (which I discuss in chapter 5) that would allow individuals engage in formal forms of employment. Hence, the parents who are themselves undocumented are left to take up informal jobs which are generally precarious because of xenophobic attitudes, and unforeseen circumstances such as pandemics.

Table 3.4 gives a summary of the socio-demographic characteristics of the parent participants.

[14] South Africa has been a member of the ILO since May 26, 1994, before the Decent Work Framework was drafted (see https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11003:0::NO

Table 3.4: Socio-demographic characteristics of parents of undocumented migrant children	
	(n=11)
Country of Origin	
Uganda	1
Zimbabwe	4
Nigeria	2
Democratic Republic of Congo (DRC)	3
Mozambique	1
Length of Stay in South Africa	
6-10 years	3
11-20 years	7
21-25 years	1
Languages Spoken	
Home Language	11
South African Language(s)	9
Number of Children	
2 children	4
3 children	6
5 children	1
Resident Area	
Hillbrow	5
Yeoville	4
Berea	1
Turffontein	1

3.5.3 The professionals

Fifteen professionals participated in this study (n=15). I have tagged this group as professionals because they are experts in their respective professional spaces. More importantly, I have named them 'professionals' for ethical reasons. Those who participated in the study from the different organisations hold strategic positions and I must maintain anonymity and

confidentiality (Turcotte-Tremblay & Mc Sween-Cadieux, 2018). This group of participants included staff members at the Project, Gauteng Department of Education (GDE) officials who deal with undocumented migrant children at different levels, and staff members at the South African Human Rights Commission (SAHRC) who engage with undocumented migrant children and their parents. This means that all the professionals who participated in the study had dealt with undocumented migrant children at different levels, depending on the organisation they belonged to at the time of data collection. For example, some professionals mentioned:

> *"[I have been] working with undocumented migrants for 16 years… [I am] always on call" (Professional 11, The Project).*

> *"Yes, I've always been in the class since 2018. I started working with these undocumented children when I started [here]" (Professional 10, The Project).*

> *"Yes, I specifically deal with special schools, so my specific experience is with undocumented children with disabilities" (Professional 6, GDE).*

> *"Yes, I have before, when I was appointed from 1996 to 2014, I was firstly a teacher, foundation-based teacher where I taught Grade one to grade three. I was the deputy principal obviously in charge of [that] primary school where we were exposed to learners who obviously were not South African citizens and that needed to be enrolled at the schools" (Professional 8, GDE).*

An important observation I made is that the professionals who worked with the undocumented migrant children from a government institution tended toward bureaucratic responses in most cases. My observation raises questions about the depth to which nationalist perspectives are deeply rooted regardless of knowledge about ideas such as equity and the importance of education. On the other hand, professionals from the Project and the SAHRC provided responses that came across as inclusive and understanding of the circumstances of undocumented migrant children in South Africa. What my observation highlights is that structures and individuals in authority within structures and government-based institutions serve to promote the decisions (positive or negative) of governments. This observation supports Unterhalter's (2009) explanation of equity from the top (policies including politics) and how it links to equity from the middle (actions taken for the implementation of policies).

In addition, while some of the professionals indicated that their country of origin is South Africa, there were others who originate from Rwanda, Democratic Republic of Congo (DRC), Nigeria, Zimbabwe, and France. Table 3.5 shows a summary of this group of participants.

Table 3. 5: Socio-demographic characteristics of the professional participants	
	(n=15)
Country of Origin	
South Africa	8
Democratic Republic of Congo (DRC)	2
Nigeria	1
Rwanda	1
France	1
Zimbabwe	2
Experience with undocumented migrant children	
0-5 years	8
10-20 years	7

3.6 Data collection process

To collect data for a qualitative study, the data collection instrument has to consider underlying meanings (Merriam, 2009; Merriam & Tisdell, 2015). Thus, I served as the primary tool for data collection while employing different methods which align with the study's objectives and philosophical assumption. Some of the benefits of being the primary instrument for data collection include gaining an understanding of meanings "through nonverbal as well as verbal communication; process information immediately; clarify and summarise material; check with respondents for accuracy of interpretation; and explore unusual or unanticipated responses" (Merriam, 2009, p. 16).

As the primary tool of data collection, I was able to gather "rich descriptions of phenomena and their settings" (Bentz & Shapiro, 1998, p. 104). Along this line of understanding, the methods of data collection I used allowed me to engage with participants in their natural settings. It also allowed me to gain an in-depth understanding of the lived experience of undocumented migrant children, as it relates to their equitable access to education. The

following sub-sections explain how I carried out my data collection/field work for the different groups of participants.

3.6.1 Semi-structured interviews: For professionals

Professionals included staff members at the Project, GDE Officials whose duties allow them to engage with undocumented migrant children, and staff members involved in education at the SAHRC. For this group, the data collection method used was semi-structured interviews. According to Merriam and Tisdell (2015), this type of interview is less structured and allows the researcher ask questions that are flexible. It also allows the researcher to "respond to the situation at hand, to the emerging worldview of the respondent, and. to new ideas on the topic" (Merriam & Tisdell, 2015, p. 111).

Over a period of six months in 2021, I conducted semi-structured interviews with professionals who were willing to participate in this study, based on the inclusion criteria (see section 3.4). Each interview lasted between thirty minutes and one hour. The interviews were held physically and for some, online, due to the differing Covid-19 restrictions as at the time each interview was scheduled, and the preference of each professional. Most of the staff at The Project that participated in the study were interviewed on the premises of the Project. This made it possible for me to take note of both verbal and non-verbal communications. Each interview session was recorded using an audio-recording device. Some of the staff at the Project showed me documents during interview sessions as proof of what they spoke of. For the other professionals who were interviewed online, I made use of Microsoft Teams to set up meetings at an agreed time. These interviews were also audio recorded with the permission of each participant. An interview guide for professionals (see Appendix N) was used as a point of reference for some of the key points I wanted to explore. However, I did not limit my questions to the guide; I asked probing questions that emerged from the discussion that occurred during the interviews. After some of the interview sessions, participants emailed me documents which clarified the meaning and context of some of the ideas they had raised during the interviews.

3.6.2 Observations and interview techniques: For parents and undocumented migrant children

In 2021, I worked as a volunteer on the Project for six months (from July to December). During this time, I observed the children and conducted focus group discussion sessions with them at

a later stage. I began my data collection with this group of participants by observing how they acted and reacted when they were at 'school'.[15] I arrived at the Project before the children were served lunch, to get a sense of what happened daily at the Project. I immersed myself in the environment (Creswell, 2013) and this helped me understand the context in which the children spoke when I conducted the Focus Group Discussion (FGD) sessions with them. In addition, I stayed in a grade 3 class where I observed the children and how excited they always were about being in a school setting. While I observed, I made notes in my field notebook (see Appendix O). The purpose of observation before interviewing the children was to build a level of trust with them to ensure productive, meaningful interview sessions. After about three months of observation and getting involved in some of the activities the Project organised for staff and students, I began to conduct FGD sessions with the children in groups. Each FGD comprised of between 6-8 children and social distancing regulations were followed. The FGDs were held on the premises of the Project in a private room. For each group of children, 2 sessions were held which took about 30 minutes each. At the beginning of the FGD sessions, I read out the rules of the session to the children. I also made use of a FGD guide (see Appendix H) which helped me ask some specific questions. During interview sessions, I used pictures to describe some of the questions I asked; this helped the children relate more to what I asked. It also created opportunities for them to share some of their experiences, based on the picture. After FGD sessions were completed, I gave the children who participated in the study a worksheet on which they coloured in the picture of a school and wrote a few points in relation to their schooling experience (see figure 3.2). The purpose of this was to make the interview process fun for them.

[15] School here refers to the children attending the Project during the school year between 3:00pm and 6:00pm. During my time at the Project, the time was moved to 12:30pm till 5:30pm daily. This means that children were in school for approximately 5 hours 30 minutes every weekday during my data collection.

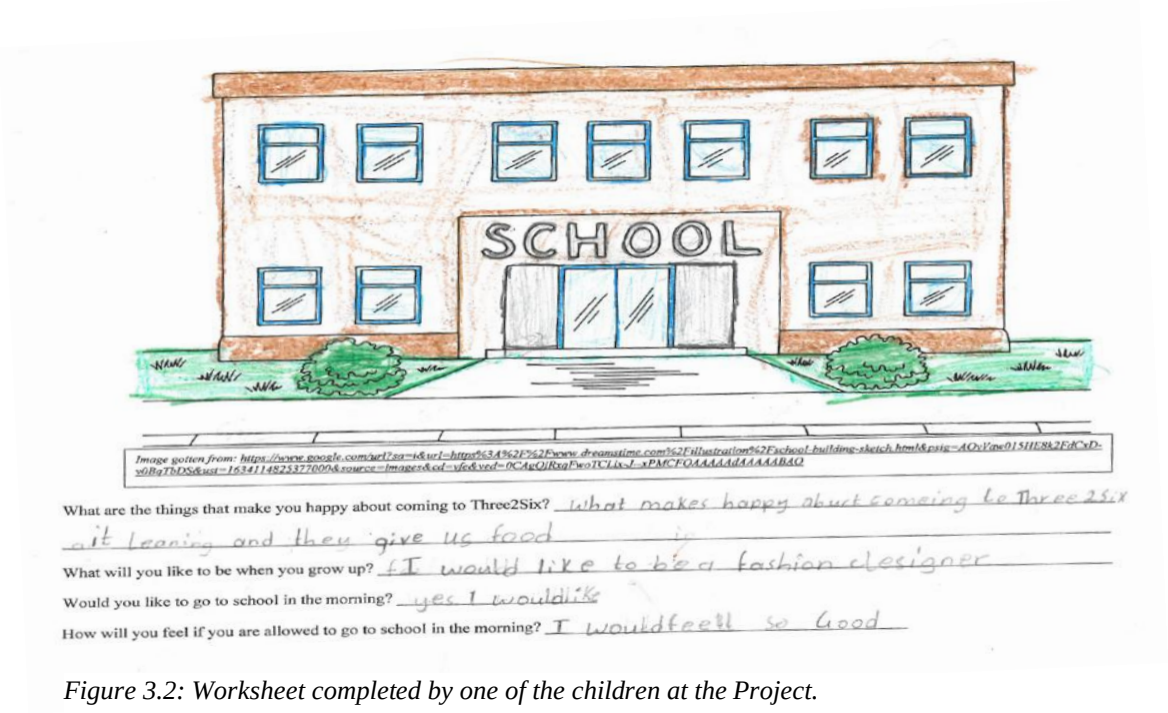


Figure 3.2: Worksheet completed by one of the children at the Project.

For the parent participants, I collected data through observation and in-depth interviews. I visited parents of the children at the Project, who agreed to be part of the study, in their homes. Not all the parents who agreed to participate had their children as participants too, because of their children's age. This means that some parents were interviewed who were not the parents of the children in the sample. However, to reiterate, all the parents interviewed had children who attended the Project, at the time of data collection in 2021. I visited their homes for between two to three hours to contextualise their experiences. These visits were made on weekdays as requested by participants. My visit to their homes allowed me to gain an in-depth understanding of some of the problems they faced in relation to their migration to South Africa, as well as the educational opportunities for their children. More so, during home visits, some participants showed me documents that they mentioned during the interview sessions, including an unabridged birth certificate (see figure 3.3), proof of attempting to get their children enrolled in public schools (figure 3.4), and clinic cards provided at the hospitals where they gave birth to their some of their children. The participants shared their experiences during the in-depth interview sessions held during my visit to their homes. I used an interview guide (see Appendix K) to ask some questions relating to equitable access to education for their children. I also asked the parents probing questions based on responses provided by the children. After each home visit and interview session, I took note of key points raised by the participants while they conducted some of their daily activities, including eating and doing

house chores in my field notebook. An audio-recording device was used to record all interview sessions.

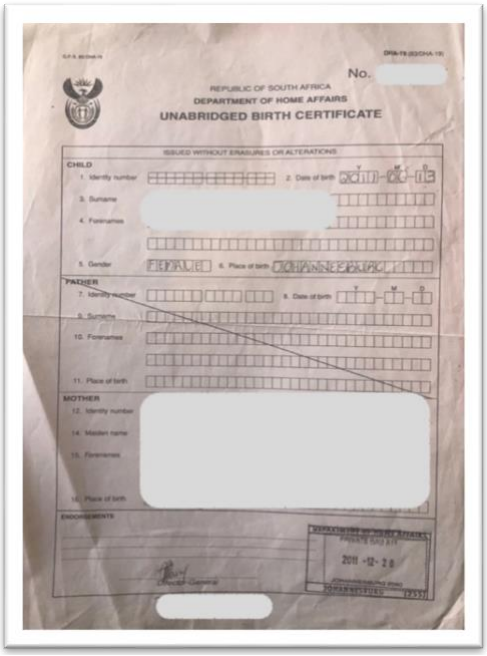


Figure 3.3: An unabridged birth certificate, notice how the ID number for the child is crossed through.

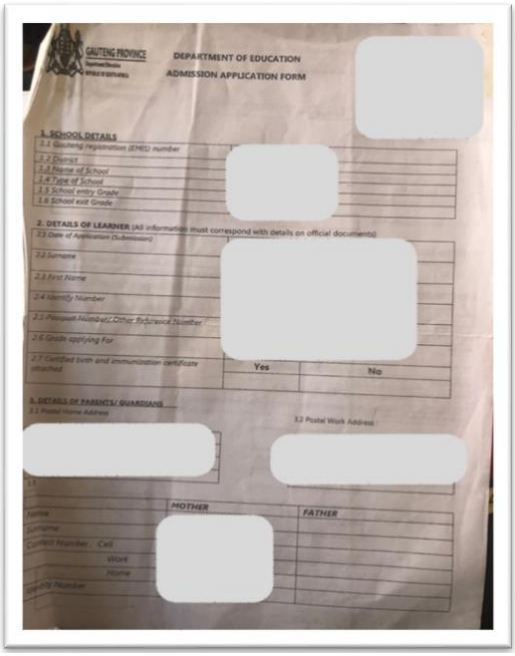


Figure 3.4: Admission application form filled by a parent to enroll her child at a public school.

3.7 Data analysis

The analysis of the data collected also followed a qualitative approach. While data collection was in progress, I began the initial stage of data analysis; hence, my data collection process and analysis were, at some point, conducted simultaneously. Each recorded interview session was transcribed word for word, and the field notes I had written helped to make sense of some contextual expressions and meanings attached to words, phrases, and gestures made.

The method of data analysis I used for this study included an inductive and deductive approach. According to Creswell (2013), using inductive and deductive approaches to analyse data involves a complex process of reasoning. Inductively, a "bottom-up" (Creswell, 2013, p. 45) method is used to draw out themes from data collected. Deductively, a constant check with the objectives of the study, alongside extant literature, shapes the themes drawn from the data (Creswell, 2013; Merriam, 2009). By implication, the process for analysing the data collected for this study followed a complex reasoning approach.

All the data gathered from interview sessions were transcribed verbatim. The transcripts were read and re-read to get a clear understanding of the data and identify or code patterns, as well as initial theme classification. After reading each transcript (as interviews were held), a codebook was developed based on the emergence of initial themes derived using a constant comparative method (see Glaser, 1965). Thereafter, the codebook was shared with my supervisor who made necessary changes based on discussions around the preliminary findings. The updated version of the codebook was then loaded unto the NVivo QSR 12 software where I coded the transcripts. The codebook was revised at various points throughout analysis (working inductively through the data; see Merriam, 2009). New themes were added and refined while I worked through the process of analysis inductively, going beyond the extant literature and the interview guide used. I referred to my field notes where I had written in daily (after each interview session or time at the Project data collection) for a deeper and contextualised explanation of some of the points raised by participants. This was helpful, especially for the interview sessions held during some home visits and those held at the Project. This allowed me to draw data from more than one source which describes the process of triangulation (see section 3.8, below).

The first round of parent 'nodes' (collection of references from the data collected about particular themes) generated were 30 in number. Subsequently, they were refined to 12 nodes with each having many child nodes. From this method of data analysis, I identified key themes including the meaning of equity and equitable access to education for undocumented migrant children in South Africa; the problems experienced by undocumented migrant children and their parents in relation to accessing education in an equitable manner in South Africa; parents coping strategies to cushion the problems of migrating to South Africa; the immigration process in South Africa; the process for accessing education within Gauteng, South Africa; and strategies to ensure equitable access to education for undocumented migrant children in South Africa. These themes are discussed in chapters 4, 5, and 6.

3.8 Data quality checks

To ensure the credibility of the findings, an explanation of the process that was followed to collect and analyse the data, and the reason for each choice, is required in a qualitative study. Creswell (2013) refers to this as "validation in qualitative research" (p. 250) while Merriam (2009) refers to the explanation of the data collection and analysis process as establishing trustworthiness. According to Merriam (2009), "qualitative research… has strategies for

establishing the authenticity and *trustworthiness* of a study, strategies based on worldviews [a specific philosophical assumption] and [research] questions congruent with the philosophical assumptions underlying this perspective" (p. 211, emphasis added). Using Creswell's (2013) words, these *validation strategies* include prolonged engagement and persistent observation; triangulation; peer review or debriefing; negative case analysis; clarifying researcher bias; member checking; rich, thick description; and external audits (Creswell, 2013). Although he notes the above-mentioned validation strategies for qualitative research, Creswell (2013) recommends that researchers make use of at least two when considering certain delimitations including time frame. In accordance with this suggestion, this study made use of strategies including *clarifying researcher bias; peer review;* and *triangulation*.

Clarifying researcher bias

Here, I recognise my bias as the primary instrument of data collection and my positionality in the field (see Creswell, 2013). Specifically, I have carefully highlighted and commented on my background, and reflected on my field experiences in section 3.10. I have also acknowledged the level of subjectivity in the analysis of the data collected. However, I have remained cognisant of the phenomenological dimension of my research and the need to generate data which is unfettered by my own biases (which refers to the idea of bracketing; see Moustakas, 1994).

Peer review

The purpose of this validation strategy allows for an external reviewer to thoroughly check the study's process. This ensures that the defining of case themes and theories drawn from the analysed data have been efficiently decided upon. My supervisor acted as the peer with whom I reviewed the data collected and preliminary findings. We held meetings where I shared the initial findings of the study, and any discrepancies were corrected. Themes that emerged were also considered in relation to the analysis provided.

Triangulation

This involved me collecting data from many sources on the same phenomenon, as well as using more than one method of data collection. Also, I used more than one theory to gain an in-depth understanding of the lived experiences of undocumented migrant children in relation to their access to education from an equity viewpoint (see Creswell, 2013; Scott & Morrison, 2006).

3.9 Ethical considerations

Beyond 'do no harm'

(Mackenzie et al., 2007, p. 299)

Ethical considerations are a significant aspect of qualitative research, before, during, and after data collection. In this study, I dealt largely with human participants, including those considered to be in vulnerable positions. I had to carefully think through the different principles of ethics and apply them while I conducted this study. These principles were mostly drawn from previous research conducted with vulnerable groups that highlighted ethical processes for undocumented migrants and refugee populations (see Mackenzie et al., 2007). Also, key ideas were taken from Hill (2005), specifically because children were involved in this study. Under this heading of ethical considerations, I highlight the principles I worked with, and how I worked with them, including institutional endorsement; informed consent (choice about taking part); confidentiality and anonymity.

3.9.1 Institutional endorsement

In accordance with the standard requirement from my university, I applied for and obtained ethical clearance to carry out my study. This permission was granted by the Non-Medical Human Research Ethics Committee, University of the Witwatersrand, Johannesburg, South Africa, and the protocol number for the clearance given was H21/05/09 (see Appendix B for the clearance certificate). For the group of participants who worked with the Gauteng Department of Education (GDE), I obtained ethical clearance from the Department (see Appendix C for the clearance certificate). I also worked closely with a Non-Governmental Organisation (NGO) known as the Bridge Option Project and I sought permission from the Director to conduct my study. Formal permission was fully granted in July 2021 by the Advocacy Division of the Project.

3.9.2 Informed consent

All participants gave written, informed consent to participate in the study. I explain the ways through which consent was obtained for each group of participants.

Undocumented migrant children:

Hill (2005) notes that for consent to be rightly obtained, it is important to indicate the purpose of the study, when the data will be collected and how long the process will take, who the outcome of the study will be shared with, how the researcher will provide feedback, and how

they will be protected throughout the study. Along these lines, because I was dealing with children (individuals under the age of 18), my first point of call was to seek consent from their parents. I sent information sheets that explained what the research was about to the parents, and attached consent forms for signing off, to allow their children to take part in the study. After receiving signed copies of the parents' consent forms, I then sought assent from the children who participated in my study, by explaining (in simple terms) what my research entailed. I made use of graphical representations to depict what I wanted to find out, as well as to know if they were interested in being part of the study. I made use of A5 forms where I used emojis to find out how they felt about participating in my research. I also mentioned to the children that I was not going to be unhappy if they chose not to be a part of my study anymore. I let them know that they could decide not to attend the discussions if they wanted to have their own 'me-time'. Afterward, during every session, I requested each child to tell the group how they felt (using pictures) on the particular day, and if they were happy to continue with the focus group discussions. This process of seeking continuous consent from the children refers to the idea of iterative consent (see Mackenzie et al., 2007). As Mackenzie et al. write, from "an ethical point of view, such process gives real content to the principle of *respect for persons*" (2007, p. 307).

Parents of undocumented migrant children:

For the parent participants (who were also a vulnerable group), the concept of iterative consent played a major role in obtaining both written and oral consent. According to Mackenzie et al. (2007), "iterative models of consent start from the assumption that ethical agreements can be best secured through a process of negotiation, which aims to develop a shared understanding of what is involved at all stages of the research process" (p. 307). To do this, I requested written consent from every parent who was willing to take part in the research. Thereafter, I received oral consent from the parents when I visited them in their homes to conduct the interviews, after explaining the purpose of the study for the second time. For parents who struggled with the English language, I used simple words to describe what the research entailed. I also informed parents that it was not out of place to withdraw from participating in the study at any point. On every home visit, I allowed parents ask me questions about the impact (positive or negative) of my research. Although doing this took time, nevertheless, I was able to allow the parent participants to share their values, fears, and hopes about participating in the study. In the end, 11 parents willingly took part in the study.

Professionals dealing with undocumented migrant children:

All professional participants (experts who work with undocumented migrant children within the South African context) provided written consent before participating in the study. This consent was only given after each one read the information sheet (see Appendix L) and understood the purpose of the research. This group of participants were also informed of their freedom to participate or withdraw from the study at any time without any consequences.

3.9.3 Privacy, confidentiality, and anonymity

All the interviews (semi-structured individual interviews and focus group discussions [FGDs]) were conducted in private spaces (in-person and online) to respect the privacy of participants and maintain confidentiality. All semi-structured individual interviews that were held via Microsoft Teams were recorded using my personal computer which is password protected and the recordings were downloaded and deleted from my online Microsoft Office account. All face-to-face individual interviews for the parents were carried out in the homes of the parents with respect for their private spaces. However, for the FGD sessions (carried out only with the children), confidentiality could not be guaranteed. I alerted the children to the importance of keeping whatever information was shared in confidence. Also, data collected were saved in my password protected computer, and all consent forms were stored in a padlocked drawer in my office on the Wits School of Education campus with restricted access.

Regarding anonymity, pseudonyms were used for interview transcripts and any other personal identifying information provided during interview sessions was not included during the process of writing up the thesis. For detailed information about how confidentiality, anonymity, and privacy were maintained, see Appendixes E, I, and L.

3.10 Reflexivity and positionality

In a bid to explain how I 'set aside' my presumptions about existing information I had about my study, here, I share my positionality in the field, as well as my reflexivity. According to Manohar et al. (2017), "in research, the opinions, values, beliefs, and social background of [a] researcher influence him/her in the research process, shaping each methodological and analytical decision he or she makes" (p. 2). During the time I worked in the field to collect data, I began to understand the depth of what it might mean to carefully reflect on my experiences, values, beliefs. I also reflected on whether I was an 'insider' or 'outsider' given my own foreign African origins, as I conducted research with mostly undocumented migrants in the

Johannesburg area of Gauteng, South Africa. Being an insider refers to "sharing the characteristic, role, or experience under study with the participants" while being "an outsider refers to not sharing commonality with participants" (Dwyer & Buckle, 2009, p. 55). In this instance, on the one hand, I am foreign (an insider) and born outside South Africa but here legally (an outsider). At the centre, I volunteered at the Project (the children and members of staff saw me as a staff member too), and I am a qualified teacher with a Postgraduate Certificate in Education (insider), but also an academic and researcher (outsider). My academic researcher identity was also at the fore when I interviewed the professional participants, especially those from the SAHRC and GDE. In relation to the research, I thus identified myself as one who had a *partial* understanding of the experiences of my participants before data collection begun. This means that I can show empathy to people's struggles and difficulties as a human being (insider) but was also there to gather data (outsider). Thus, I continued to negotiate and shift boundaries at different stages during the data collection period. This is part of the phenomenological method – this kind of reflexive introspection. Keeping this in mind, under this section, I share my experiences (which I mostly wrote down as field notes) and highlight how my positionality in the field influenced and shaped the research process (see Bourke, 2014).

At the beginning of my data collection stage at the Project in 2021, some staff members wanted to find out if I was there as a volunteer, or there to just 'interview' and 'go away' (helicopter research). I had to explain what my research entailed and the boundaries I had. The children wanted to know if I was planning to get a permanent job at the Project and become a teacher to children who attended school in the evening as part of the Project. I found this intriguing because I had not thought about being asked these kinds of questions. I carefully explained to the children the purpose of my being there on many occasions. Knowing I was working with a vulnerable group, I ensured that I established a working relationship with the staff members and the children. Moreover, because I was working with children, I had to develop a level of trust over time before I could interview them (after obtaining consent and assent). I could not remain an 'outsider' while I went to the Project every weekday for about 6 months. There were days I had to stand in for a teacher who had called in sick at the last minute, and other days I had to participate in extracurricular activities organised for the children. Ryan (2015) notes that "carrying out social research, especially face-to-face encounters with participants, encompasses numerous, complex shifting boundaries" (p. 2). This helped me negotiate the dialectical understanding of being either an 'outsider' or 'insider'; I understood myself to be a researcher with different identities while out in the field. As a result, I was able to interact with

my participants and collect rich data. Nonetheless, I believe that in volunteering for 6 months my contribution to the Project went beyond my own research interests, and I did not exploit vulnerable people purely for my own research agenda. For me, it meant that I was able to work alongside my participants in a humane way. I was also able to find alternative, appropriate ways of collecting data within the expectations of my research methods. I thus resonate with:

> views about what social justice requires, or bottom-up views about development and social progress. Perhaps the most important contribution the *capability approach* makes is to prompt us to ask alternative questions, and to focus on different dimensions when we make observations or when we gather the relevant data.... (Robeyns, 2017, p. 7, emphasis added).

When I began to conduct interviews with parents of undocumented migrant children in their homes, the parents wondered if they could trust me with the information that made them vulnerable, considering their legal status in the country. However, I took the time to explain the purpose of my research at different points and reassured them that I was not seeking information to put them at risk. After explaining, all the parents showed different levels of trust; some were happy to be photographed (figure 3.5); some offered me their traditional foods to eat (figure 3.6); some saw me off to where I could board a taxi[16] back home; and some invited their family members to share their experiences (off the audio-recording) which I got their permission to transcribe (by hand as they spoke). Also, when my identity shifted toward being an 'outsider', I took extensive notes including my observation of the way some of the participants carried out certain activities at the Project, in their homes, and even during online interviews. These notes were useful when I held meetings with my supervisor, as well as with participants to cross-check the information I had gathered from the field. In addition, I asked for clarity on the meaning of what participants had mentioned during the interview sessions to reduce any lingering bias or assumption from my end.

Another important point to mention was the issue of safety while I conducted home visits. Most of the participants lived in Hillbrow which is mostly 'tagged' as unsafe (known to be among the top 30 communities that report 'serious crimes' see South African Police Service (SAPS), 2019]) and surrounding areas, including Berea and Yeoville. These areas are closely linked with inner roads cutting across the communities. During home visits, one of the co-ordinators at the Project walked me through the streets of the Yeoville open market area. I made sure not

[16] In the South African context, a 'taxi' refers to a public minibus. They are usually a 16-seater commuter bus and are quite affordable.

to wear clothing items that could attract attention. I also had to be sure about the exact direction of the locations before leaving my home to avoid appearing lost or 'new' to the area while I walked to the homes of my parent participants.

In all, participants were happy to participate in my study and were willing to have follow up interviews if there had been a need. My experience during data collection went beyond the words spoken to me during interview sessions to me observing home spaces, behaviours, and attitudes of all participants groups. Indeed, researching the experiences of vulnerable groups further opened my mind to the different realities that exist in relation to accessing education within the South African context in an equitable manner.



Figure 3.5: A parent who allowed me to get a photograph with her.



Figure 3.6: A traditional Congolese food offered to me during a home visit.

In conclusion, I have provided a detailed explanation of the phenomenological methodology used in alignment with the objectives of this study in this chapter. I began with an explanation of the philosophical assumption (interpretivism) that served as the lens through which I conducted the research. Based on the ontological and epistemological features of interpretivism, the phenomenological approach used in the study was also explained, and thereafter, the qualitative study design employed, presented. In addition, a rich description of the study setting, the sampling strategies and sample size have been included. I have presented a detailed description of the socio-demographic characteristics of each group of participants that were involved in this research. I have also clearly described the process of data collection as well as its analysis. The chapter also includes details about the quality checks used for the

study and the ethical issues I had to consider before, during, and after data collection. I have indicated my reflexivity and positionality in relation to this study too. By providing these details, an opportunity for future researchers to consider the context to gain further understanding of equitable access to education for undocumented migrant children has been given. Moreover, opportunities are created for other researchers to conduct similar studies in other similar contexts to provide further evidential bases for the support of the proposed approach (both in thinking and in doing).

CHAPTER FOUR: THE MEANING OF EQUITY AND THE RIGHT TO EDUCATION: FINDINGS, ANALYSIS, AND DISCUSSION

In the previous chapter, I provided a detailed explanation of the research methods used to answer my study objectives. In this chapter, I present the findings, analysis, and discussion of the study's first objective. These findings show that for equitable access to education to be achieved, there must be a combination of Unterhalter's (2009) conception of equity with the capability approach. The specific objective for this chapter focuses on exploring what undocumented migrant children and their parents, the selected NGO, government officials from the GDE, and staff at the South African Human Rights Commission (SAHRC) understand equitable access to education to be. I begin by presenting the findings in form of verbatim quotations from the different groups of participants under themes that I identified during my data analysis process (see chapter 3, section 3.6). Also, this chapter includes an interpretation and discussion of the findings under each theme, based on extant literature and the study's conceptual framework. The purpose of this discussion within the findings is to interpret the themes focused on the perception of undocumented migrant children and their parents, and the professionals who deal with undocumented migrant children's access to education in relation to equity. I conclude the chapter by summarising key points raised from the study's first objective.

My argument is that to develop an approach to ensuring that undocumented migrant children can have equitable access to education within South Africa, there must be an understanding and explanation of equity from a consolidated perspective. This explanation forms part of the contributions of this study and adds to the debates on equitable access to education for undocumented migrant children in Africa. My stance aligns with Ainscow's (2020) "lessons learned" about inclusion and equity in education with respect to global problems. Ainscow (2020) argues that clarity on what equity means must be provided in policy documents, and this meaning should draw on the experience and knowledge of individuals who work with excluded children. Here, Ainscow (2020) draws attention to the need for interactions between policy, resource distribution, and the agency of undocumented migrant children; this supports and complements Unterhalter's understanding of equity. It is important to consider both top-down as well as bottom-up approaches to achieve equitable access to education for undocumented migrant children in South Africa.

4.1 Findings, analysis, and discussions: Objective one

To begin, I provide a summary of the findings in table 4.1 below.

Table 4.1: Summary of the findings under objective one	
Theme 1: Equity… what it means!	
Sub-theme 1: Equity… the opportunity to thrive	Equity means providing individuals, specifically undocumented migrant children, the opportunity to thrive and achieve what they consider valuable.
Sub-theme 2: Equity… can we just be fair?	All groups of participants explained equity to mean fairness. It was identified that fairness entails ideas about treating everyone with respect and a sense of human dignity.
Theme 2: Access to education & its importance	
Sub-theme 1: Access to education	The undocumented migrant children described access to education as the right to attend schools and learn educational skills. The parent and professional participants explained access to education as a basic human right that should not be constrained by the undocumented migrant children's legal status in South Africa.
Sub-theme 2: The importance of education: A multiplier in reality	Various reasons why education is important were identified under this sub-theme including: - *Access to other services:* When undocumented migrant children are able to access education, it creates the platform for them to also access other services such as healthcare, schoolchildren feeding schemes, and psychological based programmes for cognitive development. - *Capabilities, functionings, and the platform to achieve other human rights:* Being able to access education provides the fair opportunity for undocumented migrant children to achieve what they value as well as a platform to achieve other human rights. This platform was identified because education was considered to be, in itself, a multiplier right. - *Avoiding social ills:* It was identified that accessing education served as a deterrence for undocumented migrant children from participating in social ills. The risk of becoming child labourers would be reduced too.

4.1.1 The meaning of equity, the right to education and its importance

From the data analysis, I found that equity is explained from the perspective of fairness and the opportunity to thrive. It was also revealed that access to education is a basic human right and is important for human development purposes. I explain human development in recognition of the United Nations Development Programme's [UNDP] (2022) definition as the means to provide opportunities for individuals to achieve what they value, beyond economic benefits. In my analysis, I identified these major themes.

a) What equity means
b) Accessing education and the importance of education

In what follows, these two broad themes are presented in detail, with sub-themes and the necessary verbatim quotations to illustrate them.

4.1.1.1 What equity means

The meaning of equity, as described by the participants, is one of the key findings identified from this study. Equity was expressed in terms of a multi-layered concept that creates opportunities for individuals (in this case, undocumented migrant children) to achieve what they value. For the participants, equity comprises of concepts such as fairness, equality of opportunity, and rights. These concepts used to explain equity were highlighted by the participants and are discussed under two sub-themes. These sub-themes are "equity… the opportunity to thrive" and "equity… can we just be fair" as described below:

Equity… the opportunity to thrive

The meaning of equity was expressed with reference to giving everyone an opportunity to thrive. Thriving refers to being able to flourish which Nussbaum (1997) explains as "striving to achieve a life that [includes] all the activities to which, on reflection, they [individuals] decided to attach intrinsic value" (pp. 119-120). Simply put, flourishing is the extent to which individuals can do what they value (see Sen, 1999). In this current study, the finding on equity as the opportunity to thrive was mostly identified from interviews with parents and the professional participants.

The parents believed that undocumented migrant children deserve the chance to achieve what these children consider important or valuable. First, the parents of the undocumented migrant children mentioned that the meaning of equity is about undocumented migrant children getting opportunities to do what they want. One parent said:

"Everyone deserves the chance, they deserve the opportunity, that is equity for me. Let them [the undocumented migrant children] at least have that chance to go to school" (Parent 1).

Explaining what this opportunity represents, another parent mentioned:

"Like, you have the same rights, like the citizens, yeah, to me that's what it means; like you've got equal [human] rights as citizens also, even if you are not citizens, …Because that means I've got rights to everything also" (Parent 9).

From this parent's quotation, it is clear that there is awareness about fundamental rights not being tied to any limiting factors. Along this line, equity is referred to as acknowledging that undocumented migrant children have the same rights as everyone else, which highlights the fair equality of opportunity. This means that each child should have the chance to access education, without discrimination based on their background, immigration status, or any other limiting factor. Rawls (1999) explains this fairness in equality of opportunity as individuals having a fair chance when what one can achieve is a function of one's choice to achieve them, and not a function of his or her social background. This is relevant in the context of the study because when equity is considered as fairness in opportunity given, various levels of society would ensure these through policies, resources distribution, and recognition of personal differences across various groups of individuals (Unterhalter, 2009). Beyond being given a fair chance, this equality of opportunity recognises the specific circumstances that are capable of limiting undocumented migrant children from accessing education. With this recognition, a desire to compensate for the disadvantaging circumstances through providing more support becomes visible.

Similarly, but in a more complex way, professionals described equity as the equality of opportunity provided to everyone. The complexity lies in the use of specific terms that refer to equity as described by Rawls (1999) as well as the opportunity for individuals to thrive (see Sen, 1999). For example, one of the professionals from the GDE mentioned:

"Equity is everyone receiving an equal opportunity to achieve and to become their full selves in their access in general" (Professional 8, GDE).

To further theorise from the finding, the notion of equality of opportunity is also drawn from the understanding that equity is the opportunity for individuals to thrive. This is clear because the professional 8 participant above referred to being allowed the opportunity to achieve what

an individual values. So, equality of opportunity is when one's choice influences his or her participation in social arrangements and not the circumstance over which he or she has no control (see McCowan, 2016; Rawls, 1999; World Bank, 2012). While I recognise that there has been a critique of the idea of equality of opportunity (see Sachs, 2012), I argue that, from the perspective of providing different opportunities for individuals to participate in social arrangements, equality of opportunity allows consideration for equity. This allows individuals, and specifically undocumented migrant children the opportunity to fulfil their human rights. The opportunity to participate in such social arrangement also requires non-discrimination at various levels. So, I state that the definition of equity as the opportunity to thrive reflects the ideas of the capability approach alongside equity from a three-fold perspective which highlight the importance of the heterogeneity of individuals and structures that permit this thriving.

For the professional participants too, creating opportunities for individuals to thrive, beyond being expressed as giving people a chance to achieve what they want to do, was also highlighted to mean giving the opportunity for everyone to fulfil their human rights, without discrimination. This was considered important because, basic rights should not be dependent on whether the children are undocumented. A professional said:

> *"Well, I would say its equal opportunity for everyone regardless of race, gender, social situation, etc." (Professional 2, The Project).*

A significant point is that both professionals 8 and 2 above from different organisations used the word 'equal' in describing equity as the opportunity to fulfil rights. What stands out is the use of the term 'equal opportunity'. It thus comes across as though equity assumes the same meaning as equality. As discussed in chapter 1 (section 1.6), equity does not mean 'sameness'. For clarification, in the given context, when further probed, another professional explained the difference:

> *"I see equity as trying to put support in place for people to give them equal opportunities. So, for example, if you look at the difference between equity and equality, equality refers to giving everybody the same opportunities; so, saying okay, everybody does have opportunity to education. Equity recognises that we don't all start from the same place, so, people sometimes need some provisions or support put in place to get them get to a point to access those same opportunities" (Professional 5, The Project).*

Although I turn to a detailed discussion in the sub-theme that follows, I recognise the idea of 'justice as fairness' (which Rawls, 1999 describes) from this verbatim quotation. What I focus on here is that equity as the opportunity to thrive is differentiated from just giving 'the same' opportunity to everyone by the professionals. This differentiation was made because the professionals believed there was a need to critically consider the specific circumstance of the undocumented migrant children in the context of the South African society. To consider specific circumstances, there is therefore a need to consider equity wholistically. Looking at equity as the opportunity to thrive, most of the participants mentioned that the meaning of equity resonates with giving everyone the opportunity to thrive and achieve that which they value. Opportunity here refers to:

> when an agent is capable by his own action, of doing or having something if he so chooses, and of not having the same thing if he chooses to abstain from action. He who cannot do or have something by his own willed actions, does not have that opportunity; conversely, he who cannot but do or have something, also contrary to his own willed actions, does not have an opportunity to do or have something. Conceived in this way opportunity can be understood as a specific case of individual freedom. (Green, 1988, p. 4)

This means that for equity to be explained, undocumented migrant children must be provided with the *choice* of engaging in what they consider important to exercise their individual freedom. Sen (1999) states that opportunities can be social, and these opportunities are platforms created by society including education through which individuals can become free to lead better lives. He writes that "these facilities [opportunities] are important not only for the conduct of private lives (such as living a healthy life and avoiding preventable morbidity and premature mortality), but also for more effective participation in economic activities" (Sen, 1999, p. 39). Social opportunities thus serve as a form of freedom or unfreedom depending on the extent to which the vulnerable can enjoy such opportunities (Sen, 1999). To fully account for the extent to which social opportunities are either expounded or constrained, various levels of society must be considered. It would be meaningful to also explain these through the lens of equity because equity accounts for 'how' social opportunities are distributed within given contexts. When social opportunities are considered alongside equity (from a three-fold perspective) in the South African context, there will be specific arrangements for undocumented migrant children to access education to ensure that they can live better and truly develop beyond being able to 'merely survive'. Such arrangements will also bring forward an individualised kind of freedom where members of the society can positively benefit from

various sectors of society, such as education. This freedom is dependent on existing policies (including politics) which Unterhalter (2009) notes are the concerns in the capability approach with establishing conditions for positive freedoms.

However, some of the professionals from the GDE seemed to provide explanations of equity in relation to education being a *generalised* opportunity (that is already accessible to all children in South Africa). Two of these professionals mentioned:

> *"When it comes to education, it's allowing everyone to receive education in order to become qualified in whatever qualities that you may have" (Professional 8, GDE).*

> *Our country is wide open, to an extent that all people from different other countries will be coming in our country for, you know, should I say better resources or better education? So, it allows anybody that is supposed to be in school according to our policy and our document, it doesn't allow learners at a certain age to be at home, you know" (Professional 13, GDE).*

While these professionals from the GDE explained providing opportunities as just "allowing everyone to receive an education", it is important to reiterate that equity does not just create general opportunities. Equity in education recognises that children, those who are undocumented migrants in this case, need their specific circumstance to be considered. For instance, these children do not have legal status in South Africa and would require more support to access education. Again, equity is not just about everyone getting the same opportunities, it is about recognising the disadvantage some children face because of their circumstances. What becomes clear is that although the South African Constitution (The Constitution of the Republic of South Africa No. 108, 1996) provides the opportunity for *all* children to be educated, the reality of the South African context, which is demonstrated through the Immigration Act (Republic of South Africa The Presidency, 2002) and increased level of securitisation (as discussed in chapter 1, section 1.1), requires specific support for this identified group of children. What this implies is that the understanding of equity from the top (policies including politics) in South Africa serves as a limitation for the achievement of the freedom for undocumented migrant children to be educated. To highlight specific support required for these children in South Africa, structural limitations that affect these children must be critically considered and removed. The capability approach provides the platform to account for these limitations (Robeyns, 2017) and combining equity from a three-fold perspective further provides opportunities to interact with these limitations at different levels. For instance, beyond

recognising the general opportunity for *every* child to be educated, equity from a three-fold perspective combined with the capability approach would allow for interaction with different forms of discrimination (vertical and horizontal) and root causes of xenophobia at different levels of the South African society. Chapter 5 of this thesis engages with some of these limitations.

The notion of equity was thus categorised as separate from a "formal" kind of equality and explained with reference to a "substantive" kind of equality. This distinction between formal and substantive equality resonates with Fredman's (2005, 2016) explanation of both forms of equality. While formal equality fails to recognise heterogeneity, for Fredman, substantive equality seeks to "redress disadvantage; address stigma, stereotyping, prejudice, and violence; enhance voice and participation; and accommodate difference and achieve structural change" (2016, p. 712). This differentiation was considered important by professionals from the SAHRC because they believed that understanding the concept of equity begins with clearly identifying what it entails. Formal equality was explained as 'sameness' while substantive equality was explained as considering the specific circumstance of individuals to determine what they need. So, making a case for equity as the opportunity to thrive included stating how substantive equality resonates with the idea of equity. One of the professionals said:

> *"We work with the concept of substantive equality, which is a lot similar to equity. So instead of treating everyone the same, that would be formal equality, we believe that the [South African] Constitution really means that we should treat people differently based on their different circumstances. So, the idea is, if we treat people according to their circumstances, there will be greater opportunity, and there will be greater equality of opportunity, and even more substantively equal outcomes… So, in a nutshell, and I would equate equity with substantive equality" (Professional 12, SAHRC).*

While equating substantive equality to equity is important, the meaning of substantive equality is elusive (see Fredman, 2016). For instance, from a South African perspective, Albertyn (2018) notes that substantive equality is essentially disputed as either a dominant liberal egalitarian/social democratic version or a broader yet transformational idea. On the other hand, Fredman (2016) argues that the concept of substantive equality is only implicitly expressed in courts and national policies. In this study therefore, I argue that equity provides a clearer explanation of how disadvantage and the disadvantaged can be considered for the purpose of redress and contextualised solutions. From here, how individuals who have been disadvantaged

are able to achieve what they value can be considered. This relates to the extent to which disadvantaged undocumented migrant children are able to get educated when specific circumstances that limit them are considered (Rawls, 1999; Sen, 1999; Unterhalter, 2009). One parent and a professional mentioned:

> *"Even though these our children don't have anything [legal documentation], at least let them go to school. It doesn't mean, let them first be able to go because they enjoy it [going to school]" (Parent 6).*

> *"To me, equity is everyone receiving an equal opportunity to achieve and to become their full selves" (Professional 8).*

This finding is important because what is valued resonates with Sen's ideas on 'functionings'. As previously discussed in chapter 3, functionings are what individuals value; they are "effectively possible" and "are central to our understandings of ourselves as human beings" (Robeyns, 2017, p. 39). By implication, functionings are made up of what undocumented migrant children consider important to do or become.[17] Another dimension of the description provided on equity (as mentioned by Professional 8 above) is being able to 'achieve' what is valued. I relate 'achieving' to having the real opportunity to do what one considers important; this is capability. The concept of capability draws from the capability approach which forms part of my conceptual framework. By definition, a capability is "representative of the freedoms to achieve combinations of functionings" (Unterhalter, 2009, p. 416). The achievement of what one values creates platforms from which equity is understood in practical terms including providing tailor-made solutions at different levels to enhance the opportunity for undocumented migrant children to thrive. Bringing the three sides of the explanation together namely the opportunity to thrive; what is valued; and to achieve, equity, as highlighted in this study, brings forward the idea that there are various social arrangements, such as education, which can form part of what individuals value or consider important. Being able to do what is valued allows individuals the opportunity to engage with social arrangements in real terms. This brings about freedom because being able to enjoy education, as a social arrangement, is interconnected with economic opportunities and the level of trust built amongst members of

[17] During the final phase of my data collection with the children at the Project, I gave out worksheets (see chapter 3, figure 3.2) with a few questions for them to respond to. Their responses clearly highlighted the value attached to being able to attend school, which resonates with being able to participate in other activities that are dependent on one being educated. For instance, some of the undocumented migrant children wrote about being able to attend school so that they could be happy and become professionals in the future.

the society (Sen, 1999). Here, Sen (1999) writes, "for example, illiteracy can be a major barrier to participation in economic activities that require production according to specification or demand strict quality control (as globalised trade increasingly does)" (p. 39). Thus, Sen highlights the importance of education as a basis for the ability to participate and enjoy other economic opportunities beneficial to individuals.

In addition, professionals described equity with reference to educational contexts. The description was important because there was a need to clearly define equity in the context of this study.

> *"Equity in education would be a specific system of dealing with children (like those who are in vulnerable positions) to make sure that they are able to access schools, especially our public schools, without problems. Doing this qualifies a step in working toward equitable access to education" (Professional 8, GDE).*

> *If we are talking about equity in education, I am saying that you can't discriminate against the child because she doesn't have a paperwork, a child is a child; and all the children have a right to education, to basic education. So, when you actually say, the child cannot go to school when she wants to because she doesn't have a document, that is wrong, that is very wrong" (Professional 4, The Project).*

Hence, professionals explained equitable access to education to entail providing all children with the opportunity to be educated to the extent that they value education. This supports the conceptual framework because ideas around the freedom to do what one considers valuable can be constrained, or allowed, depending on the understanding of equity. The extent of one's capability is significantly tied to existing structures in the society, such as existing policies on immigration and education, and institutions (see Sen, 1999; Unterhalter, 2009). To ensure equity in education, there must be the freedom to access education as stated in policy documents and implemented through institutions. However, in the South African context, this freedom has not yet been realised. One of the professionals from the SAHRC said:

> *"I've mentioned that equity in education is to equalise the playing field based on different children's circumstances in terms of access to education, as well as the quality of education, but clearly that is not, you know, we're [South Africa] not yet there" (Professional 3, SAHRC).*

Importantly, the South African Bill of Rights (see The Constitution of the Republic of South Africa No. 108, 1996) clearly identifies the right of all children to access education without

discrimination on any grounds. However, as noted in chapter 1 (section 1.2) and chapter 2 (section 2.4), a level playing has not been created. Again, this explanation supports the extent of freedom for undocumented migrant children to do what they value. So far, this freedom has been constrained and compounded because of policies such as the Immigration Act No. 13 of 2002 (with ongoing politics), as well as educational resource distribution. As described in chapter 3, Unterhalter (2009) notes that equity from the middle (in this case, educational resource re/distribution) when connected to equity from the top determines the extent to which educational capabilities are expanded and achieved. In addition, expansion of educational capabilities depends on the inclusion of undocumented migrant children and their parents in discussions on access to education. Suffice to say, equitable access to education can be achieved with considerations made through a process of interacting with undocumented migrant children. As shown in chapter 3, Unterhalter (2009) argues that in education, equity involves platforms of negotiation where there is "a process of reasonableness and reflection that considers each person participating in the discussion [as having] a valuable opinion, but what is most valued is the process of establishing the considerate and fair relationships that support negotiation, questioning and discussion" (p. 417). By implication, the role of agency (including the release of the undocumented migrant children's voices) cannot be downplayed in ensuring equitable access to education for undocumented migrant children in South Africa.

I draw on Unterhalter's (2009) explanation of equity from a three-fold perspective in combination with the capability approach, to argue that equitable access to education is required to critically consider all children, without any labels attached, to enjoy the social opportunity to attend school as they choose. Under the particular circumstance, undocumented migrant children who are based in South Africa would only be granted equitable access to education when their legal status does not prevent them from achieving this basic human right. Unterhalter (2009) argues that the circumstances under which individuals find themselves can create barriers for the opportunity to thrive. Thus, when equity is considered as the opportunity for all to achieve, without any limitations placed by society, equitable access to education can be achieved. The point is that the current view on migration in South Africa serves prevents equitable access to education being achieved. To move beyond this limitation, aspects of agency must be engaged with. One of the professionals from the SAHRC explained:

> *"And so, we really want to see everyone really adopting and internalising and regulating how we express ourselves (individually and together). So, if we don't do this all comprehensively, and in tandem, then we might have a problem to get everyone in school. So, it's very important not to*

lose sight of the bigger picture and of the continued injustice and inequities. I mean that you've got to choose your strategy based on the history and the context of what discrete issue you are speaking about" (Professional 12, SAHRC).

Here, the need to express oneself highlights agency. This idea of agency has been indicated in my conceptual framework and creates possibilities for the practicality of ensuring actual access to education for undocumented migrant children in the South African context. Although I will turn to this engagement in more detail in chapter 6, I note that this practicality is illustrative of freedom through polices in place that enhance people's ability to achieve what they value, and individuals' ability to exercise their agency (see Sen, 1999). By implication, while I recognise the importance of policies, I also consider the role of agency an important aspect to ensuring access to education in an equitable way.

Equity… can we just be fair?

Equity was also described by the participants as 'being fair'. This finding was identified across all groups of participants including the undocumented migrant children, their parents, and professionals (from the Project, GDE, and SAHRC). This conception of equity is important because participants believe that ensuring fairness provides different opportunities for individuals, in varying circumstances to achieve what they want to. Moreover, equity as fairness supports the view that fair treatment aligns with providing opportunities for individuals to achieve that which they value (especially basic capabilities). Sen (1979) explains a basic capability as being able to do basic things that keep individuals out of poverty. This means that there are certain things that individuals value which have multiplier effects. Here, multiplier refers to a ripple effect that an act or action would have on individuals and their lives. Education is considered a basic capability because the opportunity to get educated creates other opportunities for undocumented migrant children, in this case, to achieve other things they value. Fair treatment in terms of access to education has far-reaching possibilities for undocumented migrant children in South Africa. This finding supports extant literature. For example, the Organisation of Economic Cooperation and Development (OECD) note that when explaining equity in terms of education, the first dimension of equity is fairness (Field et al., 2007). The authors (Field et al., 2007) specifically argue that individuals should be treated without discrimination, and educational opportunities should not be denied to anyone because of his or her background, or any other discriminating factor. In relation to the current study, an

approach to ensuring equitable access to education for undocumented migrant children in South Africa must include ideas on equity as the lens through which basic capabilities are explained.

Many of the undocumented migrant children interviewed believed that the meaning of equity is acting in a fair way to everyone and sharing. With enthusiasm, they mentioned the word 'fair' when asked to describe what equity means, in their own words. This is significant. Their expression of equity as 'fairness' draws on notions of how equity needs to be implemented. Expectations of *acting* and being *treated* 'fairly' are tied to the practical meaning and implications of equity. During a discussion session with the second focus group, one of the children persistently mentioned:

"It's fair!" (Children, FGD 2, Session 1).

In the third focus group discussion, one of the children, who was quite reserved from the beginning of session, exclaimed:

"Be fair to another!" (Children, FGD 3, Session 1).

Additionally, some of the undocumented migrant children explained this fairness as 'sharing'. The idea of sharing was considered important because it demonstrates giving others an opportunity to access services and fulfil their basic rights. Once again, the *act* and *action* of sharing is highlighted as an operational form of equity. One of the undocumented migrant children said:

"…you have to share with somebody…" (Children, FGD 1, Session 1).

In the same FGD group, another child provided an example to further illustrate what sharing entails:

"So, Ma'am, let's say you have an apple then you cut in pieces for all of us then we share it" (Children, FGD 1, Session 1).

Similar to the view of the children, parents also explained equity as being fair. They argued that it was important to consider equity as fairness because it allows individuals to recognise the need to treat each other with respect and a sense of dignity. This belief relates to the notion of human dignity where, regardless of one's background, nationality, race, gender, or other determining factors, everyone must be treated with respect (see Soken-Huberty, n.d.). While I

turn to a detailed discussion on dignity in the section that follows, as well as in chapters that follow, I recall that (expounding on what "being fair" entails), a parent participant stated:

> *"I think when they say treating like, we shouldn't compare if I'm from [name of another African country hidden]. They shouldn't be like, okay, because you're from [name of another African country hidden] they treat you bad and all these stuffs, we should always look at each other as the same person, as we are all Africans. We shouldn't have all that comparison, treating bad and all those stuffs" (Parent 1).*

Comparison brings forward the concept of nationalism which, as described in chapter 1 (see section 1.1.1) seeks to 'other' non-citizens. The problem of nationalist perspectives centres on "a clear distinction between 'us' and 'them'" (Ko & Choi, 2022, p. 14). Being fair to undocumented migrant children in South Africa becomes almost impossible because 'difference' between those who 'deserve' to be acknowledged and have equitable opportunities to fulfil their human rights and 'others' is reinforced. Also, those who are considered not deserving of equitable opportunities remain 'threats' to the safety of the South African nation. Respect for the dignity of these undocumented migrant children and their parents will not be upheld with such nationalist ideologies. However, for this narrative to change, in terms of the right to education in an equitable way, there must be a shift in the view on migration in South Africa from a nationalist perspective to a human right viewpoint. I argue this because, "we [continue to] observe a [constant] seesaw between African unity, which fades quicker and quicker into the mists of oblivion, [with nationalism] in its most bitter and detestable form" (Fanon, 1990, p. 156). It is partly from this increasing nationalist perspective that issues of discrimination and xenophobia (in the South African context) arise and serve as hinderances to equitable access to education for undocumented migrant children.

The professionals in this study explicitly described equity as fairness. This description was important for the professionals because it sufficed for both simple and complex understandings of what equity entails. On a simple level, being equitable means being fair. Complexly, equity as fairness compares with being able to demonstrate respect for individuals and what they value. Two of the professional participants stated:

> *"To me equity simply means fairness…" (Professional 10, The Project).*

> *"Equity would also mean fair chances for everyone" (Professional 11, The Project).*

In more complex ways, as described, other professionals from the Project and the GDE said:

> *"To me, the word equity means fairness; the value, the worth of something, so, that's my own understanding to the word equity" (Professional 14, The Project).*

> *"Treat people the way you want them to treat you when you go also to their country, and also accept them as they are" (Professional 13, GDE).*

Focusing on the GDE professional's quotation, a sense of 'we' versus 'them' is noted supporting implicitly a nationalist sentiment. The need to 'accept them [migrants] as they are' is problematic because it further illustrates the distinction between individuals who are the 'in-group' (citizens) versus those who are the 'out-group' (migrants or foreigners). While this professional's explanation seems to draw attention to being fair, there remains an underlying nationalist reasoning which relays the need to 'accept' threats to the national security and economic stability of South Africa. Jordan and Düvell (2003) note that "nationalists argue that States have the right to recruit or restrict according to the interests of their citizens, and to select applicants for entry" (p. 59). In this case, for the sake of being 'treated right' by 'others', the State of South Africa needs to *reluctantly* 'recruit' migrants.

Going back to equity as fairness, treating each one the way we would like to be treated concerns the need to provide support and recognition that each of us requires. This relates to the need for viewing equity as giving individuals opportunities to achieve their full potential, based on their specific circumstances, rather than a generalised approach i.e., equally. A professional from the GDE particularly mentioned that:

> *"It's more like levelling the playing field and giving support to the disadvantaged so that they are pushed to the same level as those who are advantaged in a way, okay, in the same opportunities as those who are advantaged" (Professional 1, GDE).*

In line with the idea of education as a basic capability (as earlier noted in section 4.1.1), the definition of equity in relation to fairness extends to the notion of Rawls' 'justice as fairness'. Accordingly, another professional raised the notion of what fairness means in comparison to unfairness. With a stern voice, this professional mentioned:

> *"And then we also, of course, have a lot of Constitutional Court jurisprudence, which unpacks, this notion of substantive equality, which would be similar to equity, noting that it would be unfair to treat people in objectively different circumstances the same, or to would likewise be unfair to*

treat people in objectively the same circumstances differently from each other" (Professional 12, SAHRC).

To summarise, the understanding of equity by the undocumented migrant children, their parents, and the professionals extends beyond the boundaries of similar treatment. Equity rather explains individuals treated and valued based on their specific circumstances and without discrimination on any grounds. This consensus on what equity means by all groups of participants suggests notions of equity as illustrated by Rawls, who expresses justice in terms of fairness, noting that "the concept of justice [is] defined… by the role of its principles in assigning rights and duties and in *defining* the *appropriate division* of *social advantages*" (Rawls, 1999, p. 9, emphasis added). Suffice to say "equity as justice addresses questions related to how goods, rights and duties, benefits and burdens should be allocated and to whom" (Lawrence & Reder, 2019, p. 517). It means that when equity is defined as fairness, those in vulnerable positions, in this case undocumented migrant children, are considered with their disadvantage recognised and accounted for.

Furthermore, equity through the lens of 'justice as fairness' raises questions around notions of justice which are tied to laws and social arrangements. This is because in certain cases, social justice can consider only that which fixed laws permit. Rawls (1999) writes that:

> Social structure contains various social positions that men born into different positions and have different expectations of life determined, in part, by the political system as well as by economic and social circumstances. In this way the institutions of society favour certain starting places over others. These are especially deep inequalities. Not only are they pervasive, but they affect men's initial chances in life; yet they cannot possibly be justified by an appeal to the notions of merit or desert. These principles, then, regulate the choice of a political constitution [and legislations] and the main elements of the economic and social system. The justice of a social scheme depends essentially on how fundamental rights and duties are assigned and on the economic opportunities and social conditions in the various sectors of society. (pp. 6–7)

I argue that in the specific case of my study, and in line with Rawls, the basic principles of the South African notion of social justice[18] (especially considering their view on migration) prevents ideas of fairness to be brought forward in relation to undocumented migrant children's access to education. My explanation of the South African notion of social justice is one which limits justice to nationals, and perhaps to some extent, those who are not illegally in the country.

[18] Rawls (1999) describes social justice as the fair distribution of primary social goods.

It also refers to those who 'belong'. Social justice is thus understood from a nationalist perspective. When equitable access to education for this group of children is discussed, laws about being an illegal resident in the country are considered first, before the right to education is considered. However, this remains problematic because the idea of justice Rawls describes above, which is determined by certain social structures, is tied to the fixed immigration laws. The nationalist view on social justice, therefore, does not represent equity as this study describes. As highlighted by Rawls above, such a view on social justice creates platforms for 'deep sited inequalities'; South African society has created these deeply rooted and systemic limitations. To go beyond them there must be notions of justice, from a social perspective, as fairness, where the achievement of the freedom to be educated is not dependent on one's 'natural position', which is possessing legal status in South Africa. Equity from the notion of justice gives us the platform to discuss the distribution of resources, and the upholding of rights to the advantage of all within the society. Therefore, I support equity as an action-based concept which should be implemented at different levels (policy, resource-distribution, and agency).

Equity in relation to justice as fairness is also highlighted in Aristotle's *The Nicomanchean Ethics* which serves as a foundational explanation of equity. Equity as fairness extends beyond the limitations of universal laws. Aristotle (1984) states that:

> It is plain, then, what the equitable is, and that it is just and is better than one kind of justice. It is evident also from this who the equitable man is; the man who chooses and does such acts and is no stickler for justice in a bad sense but tends to take less than his share though he has the law on his side, is equitable, and this state is equity, which is a sort of justice, and not a different state. (V. 1137b33-1138a3).

An equitable person is not concerned with 'sameness' or equality but is able to recognise the importance of fairness. However, as stated above, the South African xenophobic position on migration does not readily accept the need for equity as fairness for individuals who do not 'belong' to the nation. My attention is drawn to the fact that equity as fairness compares with the idea that beyond the boundaries of the law,[19] consideration should be made for circumstances which the law fails to account for. This is because equity as fairness focuses on different treatments for different individuals based on their various circumstances. I understand that equity goes beyond just the bounds of what fixed laws specify because tailor-made

[19] The boundaries of the law include the policies and rules that either enhance or impede the possibility of equitable access to education, for instance, the Constitution of South Africa, the Immigration Act 13 of 2002, and the recent Phakamisa ruling.

solutions are not offered by fixed laws (Aristotle, 1984). Also, in explaining why the boundaries of the law are limiting when equity is considered, it has been noted in chapter 1 that fixed laws are based on previously determined cases or situations, and do not account for context-based situations.

This means that for undocumented migrant children, the boundaries of laws and policies in the South African context are not made to cater for their specific circumstances.[20] So, negotiations – equity – must be made to ensure that their rights are upheld, beyond the bounds of the immigration policy and the admissions policy that constrain their opportunities to access education e.g., the Phakamisa Judgment. In a report on equity in education, the OECD also defined equity as fairness (see OECD, 2012). The report clearly demonstrated that in educational terms, equity as fairness is visible when situations – either economic or social – do not serve as hinderances to access to education and educational outcomes (OECD, 2012). Drawing on this definition of equity in relation to the study's conceptual framework, equity as fairness means that beyond the fixed laws (which supports an explanation of equity from the top and has an impact on equity from the middle in terms of actions or inactions to implement laws), negotiations can be entered into with undocumented migrant children (their agency and recognition of their different situations) to enhance their capability of education (Unterhalter, 2009).

4.1.1.2 Access to education and its importance

In alignment with the explanation of equity as equality of opportunity and fairness, another theme identified in this study was what access to education means (in the South African context and beyond), and the importance of getting an education. Under this section, I begin by highlighting what the professionals, parents, and undocumented migrant children explained access to education to be. Thereafter, I present the identified themes on the importance of education.

[20] For instance, as shown in table 1.1, while the Bill of Rights (The Constitution of the Republic of South Africa No. 108, 1996) states that all children have the right to education, actual access to education is tailored to exclude children without the required documentation as indicated in the Admission Policy for Ordinary Public Schools (1998).

Access to education

Access to education was explained in various ways by the different groups of participants. It was important for participants to consider what it means to access education so that notions of equity can be brought to the fore in relation to the right to education. This means that the description of access to education is linked to equity. I state this because access to education should not be dependent on any limiting factor. As equity provides opportunities for diverse individuals in varying circumstances, so does education create opportunities for children to reach their full potential regardless of their different starting points. When the reverse becomes the case, inequities within societal structures become evident including unfair policies, poor implementation, monitoring, and evaluation of policies, and the silencing of people's voices. (through discrimination and xenophobic sentiments). This illustrates a relationship between access to education and equity. Sen (1999) notes that "the more inclusive the reach of basic education…, the more likely it is that even the potentially poor would have a better chance of overcoming penury" (p. 90). Overcoming penury does not refer to poverty in only financial terms but includes opportunities to do what one values.

For the undocumented migrant children, this description was given using simple words and skills that can be learned at school. These include being able to 'go to school daily, read, write, and learn'. For instance, one of the children in the first FGD session said:

"I have the right to learn" (Children, FGD 1, Session 1).

Providing more detail about what accessing education means, from the other FGD sessions, some of the children stated:

"To learn how to read and write" (Children, FGD 3, Session 1).

"I like to come to school every day, I like to read, I like to learn, I like to listen to the teacher…" (FGD 2, Session 1).

This need to attend school every day is explained in terms of being at school from morning until afternoon, just like other children who are enrolled at 'regular' schools.[21] This means that

[21] Here, 'regular' schools refer to the public and private schools at which children who are enrolled for primary school education attend. These schools start in the morning and close in the afternoon, unlike the Project that starts school for the undocumented migrant children in the afternoon.

the undocumented migrant children were aware that the Project was not a 'regular' school. One of the children said:

> *"It means that kids must come on time at 7:30am in the morning and when it's time for us to go, we'll be going at 1:30pm" (Children, FGD 1, Session 2).*

Significantly, the older children were quick to highlight access to education as being able to *fulfil* their right to education. When I asked the children about what rights they have, they mentioned:

> *"I have the right to education" (Children, FGD 2, Session 1).*

> *"I have the right to come to school every day!" (Children, FGD 1, Session 1).*

Worth noting is that the children are taught about their rights and responsibilities at the Project on a regular basis. They are also provided with a workbook that writes about the rights of every child (regardless of their legal status in the country). I believe it is because of their engagement with what rights they have that they were able to identify access to education as a basic right. This was important because the term 'right' was described as what the children are supposed to be able to do as children (without any labels attached – like undocumented or migrant) and human beings. The United Nations Office of the High Commissioner of Human Rights (OHCHR) states that "human rights are inherent to us all, regardless of nationality, sex, national or ethnic origin, colour, religion, language, or any other status…" (n.d., para. 1). Also, I note that the right to education here relates to basic capabilities as previously explained (in section 4.1.1.1). This means that for *all* children, access to education or the lack of it has implications for their ability to engage in other activities that they consider important.

Similarly, when talking to the parents of these undocumented migrant children, their description of access to education was linked to education as a basic human right. In this context, access to education was thus described as non-negotiable regardless of the legal status of children in a country. Some of the parents mentioned:

> *"It's every child's right to education. I'm pretty sure no one is supposed to be denied education whether you are in a foreign land, country, or anywhere" (Parent 6).*

> *"Like I said, it's every child's right to get to go to school. Nobody should be refused from going to school; it is always the right thing to do" (Parent 11).*

By implication, equitable access to education is illustrative of the actual opportunity for undocumented migrant children to get educated. This opportunity goes beyond the bounds of the limitations that exist in relation to their legal status in the country. It also includes being able to achieve what they count as important or value. Equitable access to education is thus defined as the "fairness in access to educational opportunities, resources, and outcomes" (Levin, 2002, p. 163). This means that for equity in education to be implemented for undocumented migrant children, there must be formal reconsideration of policies such as the Phakamisa Judgment. Amendment of policy links to equity from the top, and the freedom for undocumented migrant children to use the educational opportunities they have. There must also be recognition of the fact that their circumstances differ from other children with documentation, and that they have things (including basic capabilities) that they want to and have a right participate in. Additionally, there must actions in terms of resource distribution which will enhance the capabilities of undocumented migrant children, as it relates to their education (see Unterhalter, 2009). This resource distribution refers to the fair distribution of educational resources such teachers, books, infrastructure. With the aforementioned, the need for a consolidated explanation of equity is highlighted because resource distribution is dependent on policies in place as well as political climate. Drawing on my conceptual framework, I therefore note that to develop an approach to ensuring that undocumented migrant children can equitably access education within South Africa, there must be an understanding and explanation of equity from a consolidated perspective. This is a key contribution from this study, as it advances debates on equitable access to education for undocumented migrant children.

As a consolidated effort, equity promotes a shift away from stereotyping certain groups of children while ensuring that tangible ways to access education are achieved. Here, Ainscow (2020) notes that "to address concerns about access and equity in education systems, it is important to know who is included, who is segregated, and who is excluded from schooling. Without such evidence, there can be no accountability" (p. 127). For Ainscow (2020), the focus should be on fundamental questions, such as who is allowed to enrol and who has been excluded. In raising these questions, the basis upon which the discrimination is driven must be clearly understood for change to occur (I turn to this in chapter 6).

Supporting this, the professional participants explained access to education as a basic human right that was not granted based on one's legal status in South Africa. An important aspect of

this finding is that the professionals believed that education plays a significant role in the lives of undocumented migrant children, just like other children who are documented. The fundamental question of those who are included and excluded must be critically engaged with, because education must be considered as a basic capability for flourishing. Some of the professionals from the Project and GDE said:

> *"I definitely think that education should be a basic human right for children because obviously it's something that has a huge impact on the rest of their lives" (Professional 5, The Project).*

> *"So, obviously children need like, if they are going through education it's going to help them sort of reach their potential with their learning" (Professional 15, GDE).*

This significant role includes education having a multiplier effect in the lives of the undocumented migrant children. Explaining the multiplier effect of education, a professional from the SAHRC said:

> *"The right to a basic education is, in terms of its weight, a very, very important right because it facilitates the enjoyment of so many other rights. It enables you to enjoy many other rights in terms of the Constitution. And it enables you to, in so many ways, to participate in society. So, from that perspective, when you deny someone that right you know, you are at the same time denying that person, any other rights, possibilities, and opportunities [in the future].*

This significant role of education in the lives of these undocumented migrant children relates to a description given by Tomaševski (2001), who writes that,

> Education operates as a multiplier, enhancing the enjoyment of all individual rights and freedoms where the right to education is effectively guaranteed, while depriving people of the enjoyment of many rights and freedoms where the right to education is denied or violated. (p. 10)

Since education is a multiplier right, the professionals believed that one's legal status should not be the determining factor for the fulfilment of the right to access education:

> *"In terms of education, equitable access, I would say it's not discriminating the children, according to where they come from, according to their looks or any form of discrimination. Equitable education refers to every child having the right education, regardless of your background, regardless of your document, that's what I would say it is" (Professional 4, The Project).*

"For us it would mean that every child would need the same kind of access to government or public education and that a certain status whether be gender or geographical area or maybe citizenship status should not impact on the extent and quality of what you access" (Professional 6, GDE).

"Children have the right to access education wherever they are irrespective of where they come from. Children who do not have paperwork should be allowed to access education in South Africa as it's not their fault if their parents have failed to organise papers for them" (Professional 11, The Project).

All these statements support what is indicated in the Bill of Rights (The Constitution of the Republic of South Africa No. 108, 1996): one's opportunity to be educated cannot be prevented because of discriminatory factors, such as the legal status of the child. What the Bill of Rights has enshrined in relation to education presents a starting point from where the capability of education for undocumented migrant children can be expanded. This relates to the link between equity from the top and capability (see chapter 2, section 2.2.2, and figure 3.1). However, the legal contradictions that arise because of other policy documents and legislations (see chapter 1, section 1.4, and table 1.1) constrain the possibility of this expansion. Also, there is a need to go beyond the top level of equity to fully grasp what equitable access to education is understood as and explained to be in the given context. This is because, beyond policies that prevent or allow the achievement of the educational right, individuals have certain beliefs about what equitable access to education means.

In explaining the need to consider access to education in an equitable way, another professional who had lived in South Africa for over 20 years and had worked with the Project for over 10 years, shared an experience from when she attended school back in her home country:

"When you talk about equity, for the children accessing education, it is all children without distinctions of where they come from, of their background, of their race, of their religions, all children should be in school. They are supposed to be in school. I remember when I went to school [in my home country], I don't remember my parents being asked for my paper or anything to come into the classroom… I remember having two or three learners coming from [another African country], they were in class, and nobody came to say they were not supposed to be in class, or anything" (Professional 7, The Project).

In addition, as mentioned briefly earlier, the professionals and undocumented migrant children linked access to education to human dignity. These groups of participants maintained that access to education is a basic human right which creates other opportunities for undocumented migrant children. This means that gaining access to schools was considered a multiplier right (a right that has multiplier effects) because of its capacity to open opportunities to access other rights (see UNESCO Education Sector, 2019). As a multiplier right, ensuring access to education has been expressed as respect for the right to human dignity. This is because human dignity (as mentioned in the introduction) means that everyone is valuable and possesses the ability to do what he or she values to achieve their full potential to flourish. Concerning an earlier discussion (in section 4.1.1), the extent to which undocumented migrant children can do what they value – get educated in this case – demonstrates the extent to which the South African State respects their inherent dignity as humans as well as their freedom. I state this because respect for the human dignity of undocumented migrant children is representative of decisions and actions taken by the State. Relating to a previous point also (section 4.1.1 and 4.1.1.1), this respect comes regardless of one's legal status within the South African context, as enshrined in the Bill of Rights (The Constitution of the Republic of South Africa No. 108, 1996). Providing a detailed explanation of the right to human dignity with reference to the Phakamisa Judgment, a professional participant from the SAHRC stated:

> *"The Court pointed out that children have their own human dignity; it is not assessed or dependent, in light of the actions of the parents, which I think is quite an important point to make. You cannot now target children and their right to basic education, not at all. And the second is obviously, that when people are in the country, even if they are, you know, illegally here, you still need to treat them with dignity and you still need to respect all the rights that they have in terms of our Constitution. If illegal immigrants are in the country, they still have rights, and they still have human dignity, which means that we need to respect that. I think that is where people, you know, misunderstand situation" (Professional 3, SAHRC).*

Another angle where respect for human dignity was expressed was by the undocumented migrant children. For these children, the rights, such as the right to a name and nationality, establish meaning for how their dignity can be realised in relation to the right to education and beyond. To reiterate, human dignity epitomises respect for the inherent value of every human regardless of their legal status in a State, or any other discriminatory factor. When I asked them what rights they think are related to being valued, these were some of the responses I received:

> *"I have a right to a name" (Children, FGD 2, Session 1).*

"You have the right to have a name and also the right to play and also the right for somebody not abusing you" (Children, FGD 3, Session 1).

"I have the right to nationality" (Children, FGD 3, Session 1).

Being given a name and having a nationality relates strongly to a sense of belonging and one's identity and has an impact on one's access to education. As explained in chapter 1, the nationality of a child is mostly tied to the proper registration of birth. However, one of the major problems (which I turn to in chapter 6 of this thesis) in the South African context is the failure of the State to appropriately register the birth of children born to undocumented migrants in the country (see for instance, Scalabrini Centre of Cape Town, 2019; Sibanda, 2021). Difficulties then arise in accessing education for these children who are undocumented because to be enrolled at schools, proof of birth registration (birth certificate) must be provided. Should equity be considered the lens through which the right to education (as a basic capability) be upheld, there would be a clear demonstration of respect for human dignity of undocumented migrant children in the South African context. This means that until access to education for undocumented migrant children is ensured in South Africa, a clear demonstration of respect for the group of children and other individuals remains questionable. Nussbaum (2000, 2007) notes that a basic human capability is an implicit expression of the concept of human dignity, and applies to everyone, who should always be regarded as an end in themselves, rather than merely a means to an end.

However, for the State to identify education as a basic capability, agency is required. I state this because mere discussions and only policies are not sufficient to cause change and freedom for the vulnerable. This implies that equity must be explained through the different levels of society for access to education to be achieved for undocumented migrant children in South Africa. Wood et al. (2011) argue that "the education sector alone cannot solve all the problems of society," and that "equity issues [in education] need to be addressed in different areas of social and economic policy in order to have sustained impact" (p. 59). I agree with Wood et al. (2011), my standpoint is that equitable access to education must be considered beyond just a basic human right and can be achieved through working across different levels of society and through negotiation with undocumented migrant children. To implement this, regardless of the structural constraints that persist at policy and political levels (equity from the top), there must be clear evidence of undocumented migrant children and their parents (through the NGOs)

working together to negotiate their personal heterogeneity and expand their educational capability (see Mkwananzi & Cin, 2020; Unterhalter, 2009). In other words, equitable access to education goes beyond just the surface level of 'knowing your rights' but extends into the contexts of education being a functioning (what undocumented migrant children perceive to be important and want to participate in), and respect for the dignity of undocumented migrant children.

The importance of education: A multiplier in reality

Education was identified as being important for various reasons. This theme was identified from interviews with almost all the participant groups. The different reasons for education's importance include:

a) Access to other services
b) Capabilities, functionings, and the platform to achieve other human rights
c) Avoiding social ills

Significantly, each reason further proves that education is a multiplier, not just in theoretical terms, but in reality, as described earlier in this chapter. While the multiplier effects of education are not limited to the abovementioned points, I recognise that each one encapsulates major descriptions about the importance of education. These are presented in detail below, with verbatim quotations to illustrate each sub-theme.

Access to other services

Findings from this study show that access to education creates the platform for undocumented migrant children to access other services.[22] This was highlighted mostly by the older undocumented migrant children and the professionals who participated in the study. For the undocumented migrant children, being able to access other services was expressed in terms of food, clothes, and their ability to take part in extra-curricular activities provided in the schools. During one of the FGD 2 sessions, one of the children mentioned:

"I like to come to school because they give us food, clothes" (Children, FGD 2, Session 1).

[22] Services here refer to social services provided by either the South African government for children in public schools or by Non-Profit Organisations (NPOs) to children enrolled in public schools. These NPOs are also referred to as NGOs (Non-Government Organisations). Examples include, when the Department of Social Development visits schools to identify children who head families (child-headed families) to include them in home-based care model programmes (see https://mg.co.za/article/2018-02-23-00-education-and-social-development-departments-collaborate/?amp). And when the NPOs provide medical care for children enrolled in low-income schools or children gaining access to school feeding programs

In another FGD session, the children excitedly shared their experience of attending a programme at a school which was organised by the Project.

> *"I remember when we had a program at [a school – name hidden] we played soccer and we played, and we swim with Mr Star [pseudonym], yes. We were jumping in the water, and he was teaching us to swim" (Children, FGD 3, Session 2).*

> *I remember also when we went to holiday program at [the Project] and we went to the Zoo Lake. It was nice and we went on the big bus. Ma'am Paulina [pseudonym] took us there. We were playing soccer and doing egg and spoon race like that one that they do in the schools. [If] you cannot do, if you fall, you must start again!" (Children, FGD 3, Session 2).*

It is evident that these children viewed being able to access extra-mural activities and social services as one of the reasons why accessing education is important. This shows how access to education has a multiplier effect. I note that one way to ensure this multiplier effect becomes a reality is through equity from the middle where actions are undertaken to bring about the equitable distribution of services for *all* children. Along this line, the study's conceptual framework highlights the link between the expansion of undocumented migrant children's educational capability and resource distribution. These "other services" serve as "social arrangements [which] mediate flows of value in education" (Unterhalter, 2009, p. 420).

For the professionals, accessing other services provided for school-going children was beneficial regardless of anyone's legal status. As long as they were enrolled at schools, there would be opportunities to access other services and activities. These include extra-mural activities such as sport, psychosocial support, free meals, and access to medical care. One of the professionals from the GDE mentioned:

> *"From a psychosocial perspective, children need to integrate, and children need to access services, it's not only academic readings that you find in schools. For instance, in Gauteng [a province] a feeding scheme or school health services or a teacher picking up that the child is being abused, or just having a safe place during the day while his [or her] parents are not able to, probably at work or trying to survive in some way, to have a safe space. Therefore, for me, as much as the academic is important, the psychosocial services that comes with being part of a school is equally important" (Professional 15, GDE).*

In South Africa, the feeding scheme is also known as the National School Nutrition Programme (NSNP); it is free and is aimed at providing healthy meals to children attending low quintile

schools[23] to improve their ability to learn (Department of Basic Education, n.d.). In addition, the feeding programme is aimed at enhancing regular school attendance. This means that only children who are enrolled at schools have access to this service. Similar to the aim of the South African NSNP, in England and Wales free school meals are also provided to children from disadvantaged backgrounds (see Taylor, 2018). The feeding programme provided in schools is not only advantageous for children from poor and disadvantaged households, but allows children in need of food, and who are enrolled at schools the opportunity to get fed. While I recognise that school feeding programmes might not be able to adequately identify pupils who are from disadvantaged homes, I do not dwell on this angle of the programmes. My point here is that, only children who are enrolled can get the chance to access these free meals. Thus, the importance of undocumented migrant children being able to access education can be related to the opportunity for them to enjoy other resources provided at schools. From a policy perspective, Unterhalter (2009) argues that

> Just as money or equity stock is not in itself valuable without attendant social arrangements that confer worth, equity from the middle — be it for example forms of teacher training, or user fees, or modes of school transport – is not in itself fair or just without an articulation with equity from below and equity from above. (p. 421)

By implication, resources made available through educational institutions are dependent on existing policies and the agency of those who require the resources. In this case, and in relation to the conceptual framework used, equity from the top (policies and legislations) must clearly articulate the fair distribution of resources across schools. However, top-down responses to achieving equity is not sufficient to ensure actual opportunities for undocumented migrant children in terms of access to education. You also require engagement with the children and their parents.

Still on access to other services, other professionals from the Project and GDE also indicated the following:

> *"the fact our schools assist parents to access grants through provisioning: like girls get sanitary towels, medical access, even school uniform and clothing, feeding scheme at school and taking food home, these types of services are extremely important" (Professional 11, The Project).*

[23] The South African Department of Basic Education uses a national School's Quintile system. The system has 5 rankings and schools categorised under quintiles 1, 2, or 3 are classified as low quintile schools. These schools are 'no-fee paying' and so, are usually open to children who might be unable to have good meals in their homes.

"So, in all schools, I think there is a definite pro-poor support planning in place. If they [schools] do not access the provincial feeding scheme, like all special schools for instance don't access the provincial feeding scheme, they initiate their own feeding scheme with support from community" (Professional 6, GDE).

From these verbatim quotations, ideas on how the study's conceptual framework is implemented are illustrated. When these undocumented migrant children are allowed to enrol in schools (equity from the top), equity from the middle is seen through the provisioning of other basic services that further assist in the implementation of the right to education enshrined in laws and policies. From there, support can be given by members of the community and individuals (which shows the exercise of both individual and collective forms of agency) to demonstrate the value of education. Concerning agency, Unterhalter (2009) notes that regardless of problems that might exist which impede equitable access to education, the working together of communities and individuals can bring about the expansion of capabilities as well as the negotiation of existing differences in an equitable way. Each of these levels of equity contributes to the expansion of the capability of education for undocumented migrant children.

Moreover, undocumented migrant children are able to get various forms of support by just being able to attend school in South Africa. This support is considered in terms of what is best for the child. By implication, equitable access to education requires non-discrimination and the 'best interest of the child' both in the present and future. In the now, it would mean providing the actual opportunity for undocumented migrant children to access education. For the future, these children would be able to achieve many other things that they consider valuable because being educated creates the space for achieving other rights, and so, the expansion of their capabilities. Similarly, one of the professional participants detailed what the South African Constitution states about the best interest of the child and accessing education:

"Because our Constitution – Section 29 – guarantees the right of basic education to everyone, not to citizens, like some other rights in our constitution; so that's clear, the Constitution is supreme. The right to basic education is granted to everyone, it is an immediately realisable right, and it should be read with section 28 of our Constitution, which says that in any metric concerning the child, the best interest of the child is paramount" (Professional 12, SAHRC).

This idea of the 'best interest of the child' can be further expressed with reference to creating opportunities for children to be able to do what they want to do. This relates to the next sub-theme – capabilities and functionings.

Capabilities and functionings, and the platform to achieve other human rights

All the participants highlighted the right to education and its importance from the viewpoint of what undocumented migrant children want to achieve, versus what he or she is able to achieve, based on his or her context. The concepts of capability and functionings are highlighted here; these concepts do not work in isolation. Realising capabilities and functionings creates the platform for individuals to differentiate between the opportunities that are readily available to anyone in a given society and the specific experiences that determine what one can actually achieve. By implication, the importance of equitable access to education is that it would allow these undocumented migrant children to thrive as well as demonstrates the extent to which their right to human dignity is respected. To reiterate, a link between the multiplier effect of education and human dignity is clear. The extent to which these undocumented migrant children are able to do that which they consider valuable is illustrative of the extent to which their right to human dignity is respected. Therefore, as a human right, and as one of the basic capabilities indicated by Sen (1999), being able to achieve education is a key factor in measuring well-being. For instance, some parents noted:

"Whatever they feel like they want to be; it's a foundation to fulfil their dreams" (Parent 6).

"…what would be a future for a child when the child is not going to school, nothing, a child will just be a useless" (Parent 8).

The professionals mostly expressed the undocumented migrant children's inability to access education in an equitable manner as evidence that although education is considered as a basic capability, it needs to be within reach for the identified group of children in the South African context.

"Education enables these children [undocumented migrant children] to get the opportunity to participate in society" (Professional 15, GDE).

"It's their capabilities that we try to expand, you know, so they have to tell us what kind of freedom they value, you know, what capabilities they want to be able to truly have to, to reach various functioning outcomes. So, we have to hear it from them as well. And then, as soon as you

give agency to people, you let them express their agency. It just shows respect as well. And I think that could more easily then be translated or fed into the policymaking progress so that it eventually crystallises as the new norm, you know which is one of inclusion rather than exclusion" (Professional 12, SAHRC).

The notion of respect suggests the recognition of the dignity of the undocumented migrant children, and so, their ability to express their freedom in terms of doing what they value. Being educated is what they value and the actual opportunity for them to get educated in South Africa allows them the opportunity to achieve freedom (see Mkwananzi & Cin, 2020; Sen, 1999). Reference is also made to how access to education builds capacity in undocumented migrant children to be able to exercise their agency. Through providing fair opportunities for undocumented migrant children to access education, other opportunities are created for the fulfilment of other rights. As indicated, education is considered a multiplier right (see UNESCO Education Sector, 2019). Providing fair opportunities begins with an understanding of equity from the top (policy-level) for ensuring these identified group of children can access schools without discrimination on any grounds. Through policy-level strategies that are fair, the distribution of resources that have an impact on the facilitation of educational opportunities for undocumented migrant children must also be carried out fairly.

Another professional alluded to the fact that 'being able to be educated' expands one's capability (what the undocumented migrant child is able to do) in the South African context. Accessing education serves as the undocumented migrant children's "real freedom to do [what they value], and [increases] the level of wellbeing that they will reach when choosing from the options open to them" (Robeyns, 2017, p. 8). The professional said:

"I think it's just that education is everything for a child, you know, it's the way that they educate themselves. It's the way that they learn how to live in a society. So, I think it's so important for their own development as well" (Professional 2, The Project).

Education being 'everything' supports the idea that education can ensure the expansion of opportunities and capabilities for the undocumented migrant children in South Africa. Saito (2003) argues that the expansion of capabilities by education is two-fold. First, it expands the "child's capacity or ability," and "the other is the expansion in opportunities that the child has" (Saito, 2003, p. 27). In this case, from the verbatim quotation, both kinds of expansion have

been suggested. The role that equitable access to education can play in ensuring undocumented migrant children are able to pursue opportunities in the future is significant.

Consequently, it becomes clear that not being able to achieve 'getting educated' within South Africa as an undocumented migrant child has an impact on other aspects of one's life, including the ability to develop socially and cognitively. One professional stated:

> *"And socially, I think that it is also important, I mean obviously children can socialise outside of school, but I think for young children a lot of that social development takes place in school because they are interacting with children at school, they are interacting with adults. They are learning those social skills that they need; how to interact with children, how to interact with adults and developing social skills by being in that environment. So, I think if they are in a situation where they are not able to attend school or have any other kind of social interactions, then it will impact them learning those kinds of social skills and dynamics that they need in life" (Professional 15, GDE).*

Another professional commented:

> *"…education is the foundation of all the human beings" (Professional 7, The Project).*

With the mention of human 'beings', it is evident that access to education through the lens of equity would ensure that every child, without any form of discrimination (specifically in terms of their legal status in this instance), can achieve this basic human right. This further crystalises the argument made earlier about the link between equity and access to education.

> Equity in education entails some acceptance of a space of negotiation in which particular concerns of groups or individuals… are negotiated not on the basis of majority rule, or the intensity of one person's view with regard to another, but through a process of reasonableness and reflection [which] considers [that] each person participating in the discussion has a valuable opinion, but what is most valued is the process of establishing the considerate and fair relationships that support negotiation, questioning and discussion. (Unterhalter, 2009, p. 417)

What Unterhalter notes in the above links to the idea of education being a foundational value which individuals consider important. So, negotiations have to be made based on what is valued rather than forms of discrimination that ignore the dignity of humans, in this case, undocumented migrant children.

Further, participants highlighted that education was important because it enabled access to other human rights. For instance, the right to education provides the opportunity for individuals to uphold their right to freedom of association, opinion, and economic rights (favourable work conditions, higher standards of living) (United Nations, n.d.). To be able to achieve improved lives, education is important. Simply put, education serves as the basis for undocumented migrant children in South Africa to be able to fulfil these other rights. One parent expressed this in terms of the children fulfilling their dreams:

> *"There is, there is… education is just the key to everything, it's just the foundation for life and the future. Whatever they feel like they want to be; it's a foundation to fulfil their dreams" (Parent 6).*

In expressing why equitable access education remains important, the undocumented migrant children were able to link education to the right to housing. For instance, one of the children related it to the right to a shelter:

> *"…Ma'am when I grow up, I will build a house for my family" (Children, FGD 2, Session 1).*

This sentiment supports the importance of accessing education in order to be able to realise the economic means to build a shelter which in turn allows individuals to thrive through respect for their basic human rights and so, their human dignity. Also, it highlights the argument for the multiplier effect of education.

Supporting this, professionals explained that access to education would give rise to a platform to achieve the other rights mentioned. One of the professionals noted:

> *"it's [access to education] also instrumentally valuable for leading to the realisation of various other human rights and can and will be an exit strategy for these children for a better future and to get out of poverty, and to close the inequality gap. So, in capability language, it's a third tile capability, which can give rise to further capability expansion. And it's the same notion as an empowerment right, as we would say, in the law. And I think that is valuable in the first place" (Professional 12, SAHRC).*

Again, education plays a central role in expanding capabilities through expanding opportunities available to undocumented migrant children. Along this line, Saito (2003) provides a detailed example:

> Lisa learns mathematics and as a result, she has wider opportunities to become a mathematician, a physicist, a banker and so on. These newly created opportunities and capabilities, such as

> becoming a mathematician or a physicist through learning mathematics, may be ones that Lisa was not aware of, and which were not in her 'capability set' before learning mathematics. (p. 27)

Education as an empowerment right mentioned by Professional 12 from the SAHRC or education having multiplier effects is illustrated by this example above. Here, expanding one's capability also involves being able to get a job and build a career that one values. From the findings, the importance of being able to access education in an equitable way is central to achieve this value. For the undocumented migrant children, being able to 'become' something meaningful in the future such as getting a good career, securing employment or being able to work is valued:

> *"Because I want to learn; grow up and be a pilot" (Children, FGD 1, Session 1).*

> *"Because we need to learn and grow up and you get a job and be whatever you want to be" (Children, FGD 3, Session 2).*

> *"I like to come to school because they give us clothes, and they make us learn so that when we grow up, we may have good future" (Children, FGD 2, Session 1).*

A remarkable angle from which some of the older undocumented migrant children explained the importance of accessing education was being able to have educated children themselves with the hope of a future for these children.

> *"I want to learn because I want to have education, if I grow up, my children must have a bright future…" (Children, FGD 2, Session 2).*

> *"We need to learn and grow up and you get a job and be whatever you want to be" (Children, FGD 1, Session 1).*

Both parent and professionals echoed the sentiments from children, pointing out that accessing education is significant for finding a job. Some of the parent participants stated:

> *"So that they know how life is because if they don't go to school, they can't find a job, find a better way of living" (Parent 5).*

> *"It [access to education] is for them to be able to have a better future. If you can't send your child to school, that child will be just useless; cannot know anything. No job, if you go what I can do with a child if a child is not going to school, what would be a future for a child when the child is not going to school, nothing, a child will just be a useless" (Parent 8).*

Drawing from these verbatim quotations, finding a job, and building a career provides the platform for the identified group of children to have meaningful lives in the near future. Moreover, being able to get a job and build a career was also identified as resulting in better societies. Some of the parent and professional participants highlighted this:

> *"We want them to have a better life, good [and] responsible [in society], a responsible person, yeah, for a bright future. We want them to have bright futures" (Parent 9).*

> *"It's how they will get enough knowledge to hopefully get a job one day, hopefully a good job, and then contribute to the society" (Professional 2, The Project).*

When I probed another participant to further explain why building a career and getting jobs was important, he mentioned the potential contribution that undocumented migrant children bring economically to their host countries. This is important because one way to build economies is to harness available human resources, regardless of an individual's background. For instance, a study (Sherman et al., 2019) conducted in the USA for the Centre on Budget and Policy Priorities (CBPP) found that migrants contribute significantly to the country's economy. The professional shared:

> *"Remember the child has invested time and part of the years, most of their life into schooling, the department and the government has invested money, then the parents have sacrificed and also if you disadvantage such learners, first you are dooming their future or you are depriving whether this country, if they are going to work within this country or in another country, you are depriving that country the potential for good workers in the future or even creators of work in the future" (Professional 1, GDE).*

However, it is important to restate that ensuring access to education for undocumented migrant children in South Africa goes beyond the bounds of economic benefits. It transcends into spaces of human development. The goal of human development is to consistently improve the quality of human life (see Sen, 1999; and United Nations Development Programme [UNDP], 2022). While it is important to ensure economic growth through educating *all* children, it is more significant to provide educational opportunities for undocumented migrant children so that their quality of life can be enhanced. Here, ideas on agency are highlighted because, as previously mentioned, providing educational opportunities creates a platform for these children to be able to participate in other activities that are beneficial to them. Also, when educational

opportunities are provided in an equitable way, undocumented migrant children's valued functionings can be achieved.

Avoiding social ills

All groups of participants mentioned that being able to access education was important for reducing the chances of undocumented migrant children engaging in social ills. The social ills discussed included getting negatively influenced by peers and becoming 'street children',[24] misuse of drugs, and prostitution. Thus, the school environment, as opposed to the community environment, was considered a safe place where children are taught academic subjects and also learn to adhere to the school rules.

When I asked the undocumented migrant children why it was good for them to be able to attend school, they articulated some of these social ills as exemplified here:

> *"[attending school] is keeping us from danger like going to steal" (Children, FGD 1, Session 1).*

> *"if we are in school, we would not be joining bad friends to do bad things" (Children, FGD 3, Session 2).*

Similarly, for their parents, the importance of their children being able to attend school was to 'keep out of trouble'. This idea of keeping out of trouble implied not being 'street' children, and or engaging in drug abuse or prostitution. In keeping away from becoming children in street situations, the parents believed that the children would keep away from criminal tendencies. Some of the parents mentioned:

> *"But that kid they are not going to school, the person is free, they are busy only going up and down. Last week, another boy he cut the ear, that side there is violence because the people was fighting…. But if that kid was going to school, you know, all demand [schoolwork and activities] are there at school, you don't have too much time for friend, you don't have too much time for up and down, you know that life" (Parent 3).*

[24] According to the United Nations Convention on the Rights of the Child (2017), "the term "children in street situations" is used to comprise: (a) children who depend on the streets to live and/or work, whether alone, with peers or with family; and (b) a wider population of children who have formed strong connections with public spaces and for whom the street plays a vital role in their everyday lives and identities. This wider population includes children who periodically, but not always, live and/or work on the streets and children who do not live or work on the streets but who regularly accompany their peers, siblings, or family in the streets". (p. 3)

"Education is more important because I believe that those kids that they do crimes or do other bad things [like taking] drugs, and stuff it's because of that [being out of school]. It's because of lack of knowledge, not going to school, so kids wake up and go around and do things that they are not supposed to do if they were in school. When it is [a] school day, they learn how to behave, so, you know, how to respect and all that. So, I think it is important for the children, all of them to go to school" (Parent 1).

This finding shows that when undocumented migrant children can access education in an equitable way, the chance of engaging in social ills would be reduced or avoided. Undocumented migrant children and parents largely talked about 'being able to keep out of trouble'. To reiterate, 'keeping out of trouble' meant not engaging in harmful or destructive activities such as drug misuse, prostitution, and criminal activities which are capable of endangering the mental and physical health of individuals and society at large. This finding has also been noted by Tonwe (2022) in a study conducted in Nigeria. According to Tonwe (2022), access to basic education reduces participation in criminal activities because education serves as a resource for self-building and human development, in the long run.

Similarly, a report from the United Nations Office on Drugs and Crime [UNODC] (2004) indicated that schools serve as a space where knowledge about the dangers of drug use. In relation to the current study, it is evident that while education is a basic human right, it also serves to prevent undocumented migrant children from participating in activities that can endanger their lives such as drug misuse and criminal activities. This means that equitable access to education gives undocumented migrant children the opportunity to enjoy "substantive freedoms… to lead the kind of life he or she has reason to value" (Sen, 1999, p. 87).

Closely related to the parents' explanation, the professional participants also revealed that being in school prevented undocumented migrant children from 'being on the streets'. In school, the children would have the opportunity to be fully engaged in what they consider valuable, rather than in vices that might be harmful to them. Some professionals mentioned:

"If a child is in the street, what's in the streets, the street gives them drugs, the street makes them thugs; without education, we will not have leaders. So, if we do not have leaders, what do we have? If children are not at school, then we are creating a whole generation of uneducated people" (Professional 4, The Project).

"If the children do not go to school, they will become a nuisance to the community and in order not to have more street kids or the children that will bring problems to the country, it is better they allow all the children to have access to education" (Professional 14, The Project).

Drawing from these verbatim quotations, the idea of 'functionings' is once again raised. Reiterating that functionings have to do with what individuals can do, I recognise that these functionings might be positive or negative. For the functionings of undocumented migrant children to remain positive, there must be platforms that allows these children to positively thrive. Robeyns (2017) notes that not all "functionings have a positive value … such as engaging in acts of unjustifiable violence" (p. 41). When undocumented migrant children lack a chance for equitable access education, they become vulnerable to developing negative things and behaviours. However, when opportunities are created for access to education, undocumented migrant children are able to effectively choose positive things as what they value. Education gives the chance for individuals to make informed decisions and serves as a multiplier right; so, in getting a chance to be educated, these children can make informed decisions about what positive and negative values entail and they can then choose what is valuable to themselves.

The need to avoid social ills was also expressed in terms of the children being susceptible to engaging in social ills to make ends meet should they not be able to access education. So, being at school provides the opportunity for undocumented migrant children to lead lives in which they are not engaged in criminal activities to survive and maintain a source of livelihood. One of the professionals highlighted:

"You are not going to school, you need to eat, the next thing you hear, they were found stealing there, they were found doing this and that, all those bad things. Because some of them are forced to do that, it's not like they have a choice; but that is the only thing that is in front of you, stealing, they steal. It's a problem we have" (Professional 10, The Project).

"They won't have that access and they also need a source of income, and they can't work, no one can employ someone who doesn't have papers, but they need money. They will end up doing bad things like stealing" (Professional 9, The Project).

By implication, the need to access education in an equitable manner for undocumented migrant children is interwoven into the complexities of 'staying away from criminal tendencies'. More

so, this need has an impact on the future in terms of finding jobs and building a career. Education thus becomes beneficial to the undocumented migrant children, as well as the society at large. Sen (1999) argues that:

> given the shared communal benefits of basic education, which may transcend the gains of the person being educated, basic education may have a public-good component as well (and can be seen as a semi-public good). The persons receiving education do, of course, benefit from it, but in addition a general expansion of education can facilitate social change and also help to enhance economic progress from which others too benefit. The effective reach of these services may require cooperative activities and provisioning by the state or the local authorities. (pp. 128-129)

This means that when access to education is considered from an equity perspective, benefits valued by both undocumented migrant children and society would be realised. Drawing on the study's conceptual framework, equitable access to education for undocumented migrant children allows us to create opportunities through which concerns of human development for these children can be raised.

I note that the importance of education ranges from economic to social contributions and opportunities that opens up to undocumented migrant children in South Africa and beyond. Notions of the need for equitable access to education which go beyond economic development to ideas on human development are thus raised. As earlier stated, instead of focusing only on economic wealth, human development aims to increase the richness of human life. People, their opportunities, and their choices are at the centre of everything (United Nations Development Programme [UNDP], 2022). In relation to the study's conceptual framework, the human development of undocumented migrant children can be considered as expanding their capabilities (Fegter & Richter, 2014; Sen, 1999). Sen (1999) clearly notes that "the creation of social opportunities [such as access to education] makes a direct contribution to the expansion of human capabilities and the quality of life" (p. 144). Beyond undocumented migrant children valuing education, the fair provision of the actual opportunity to get educated would bring platforms for these children to lead quality lives. These lives are capable of bringing about the creation of positive values which go beyond being able to fit only into the South African society but extends into spaces where critical reflection on their circumstances is engaged in and the 'how' of being able to thrive is also considered.

In conclusion, I have presented the findings, analysis, and the discussion focused on the first objective of the study in this chapter. This objective explored the understanding of access to education from an equity perspective from undocumented migrant children and their parents, the selected NGO, government officials who deal with undocumented migrant children. The overarching lesson from this work entails that to understand equitable access to education, an explanation of equity is required. This explanation of equity has been expressed by participants as the opportunity to thrive, as well as fairness. Equitable access to education has also been described as a basic right, and as an opportunity for undocumented migrant children to expand their capabilities which will have an impact on their human development. What this chapter highlights is the evidence in the South African context which supports the need for a multi-faceted explanation of the meaning of equity. Drawing on this interpretation, I describe how human development brings forward the finding on the importance of equitable access to education. I identified various reasons mentioned by participants including undocumented migrant children being able to access other services, the expansion of their capabilities and the freedom to achieve that which constitutes value for them, and the platform to achieve other human rights, and the avoidance of social ills. From the importance of equitable access to education discussed above, it is clear that the real opportunity to get educated aligns with an increased opportunity for human development for undocumented migrant children.

I thus argue that the meaning of equity must be viewed from a consolidated perspective where from the top, equity is considered and implemented based on policies and legal frameworks. Equity from the middle is impacted by the policies which ensure the distribution of resources based on the policies that provide individuals with the fair opportunity to thrive. Equity from below recognises the differences in individual experiences and individual agency. With this understanding of equity as a three-fold concept, the freedom for undocumented migrant children to access education is expanded. Moreover, beyond equitable access being a basic human right, I argue that education in itself serves as a multiplier right and raises notions of the importance of positive functionings or values. These functionings would increase the chance for undocumented migrant children to experience human development which goes beyond the boundaries of economic wealth into spaces where these children can lead full lives. However, in South Africa, undocumented migrant children face problems that threaten this explanation of equity. What should be done urgently is that the specific structural limitations be addressed because these factors limit the children's fair opportunity to access education. The capability approach provides a platform for the investigation and identification of these

limitations. In the next chapter, I present the findings on the problems faced and I interpret and discuss these findings in relation to the study's conceptual framework.

CHAPTER FIVE: THE PROBLEMS UNDOCUMENTED MIGRANT CHILDREN AND THEIR PARENTS EXPERIENCE: FINDINGS, ANALYSIS, AND DISCUSSIONS

In the preceding chapter, I presented the findings and analysis (in the form of verbatim quotations from the participants) from the first objective of the study, which focused on the meaning of equity, equitable access to education, and the importance of equitable access to education. I also included an interpretation and discussion of the findings based on already published literature, and in relation to the study's conceptual framework. This chapter will develop the second objective of the study, namely the problems undocumented migrant children face in relation to equitable access to education. This chapter engages with the findings under objective two for the overall purpose of presenting evidential support for my central thesis. So, I present the findings, also using verbatim quotations, which connect with this objective. Under each major theme presented, I will include the interpretation and discussion of the findings in relation to extant literature as well as the conceptual framework used for this study. The chapter ends with a conclusion which provides a summary of the key points and arguments presented within the chapter.

To elaborate on the central thesis, my argument under this specific objective is that while some of these problems might not be peculiar to undocumented migrant children and their parents, the complexity of their legal status compounds the problems. The problems significantly increase the difficulties these children face in terms of their fundamental human right to access education. My position forms part of the contributions that this study puts forward in the debate about equity and fundamental human rights for children who do not have the legal status to be or remain in South Africa. Along these lines, I begin with a summary of the main findings under this objective (see Table 5. 1 below).

Table 5.1: Summary of the findings under objective two	
Theme: Problems undocumented migrant children face	
Sub-theme 1: Documentation problems: "No paper, no rights!" – A conundrum	Because their parents lacked documentation, undocumented migrant children also faced the problem of the lack of documentation. They were not issued birth certificates and so, their births were not appropriately registered. Although some of the undocumented migrant children had unabridged birth certificates (which has no identification or registration number), this document was not useful for them because their parents did not have the required documentation to remain in South Africa. The parents of undocumented migrant children were afraid of going to the South African Department of Home Affairs Office to renew or apply for permits because of the fear of getting arrested by the police.
Sub-theme 2: A cliché? Discrimination and xenophobia: "As long as you're not from here, just go back home!"	For the undocumented migrant children, xenophobia and discrimination was experienced because of bullying in their communities. The parent participants noted that they experienced discrimination and xenophobic attacks when they went to the South African Department of Home Affairs Office to renew their permits. From the professional participants, it was found that xenophobia is a deeply rooted problem in South Africa. Discrimination is experienced even when undocumented migrant parents attempt to get their undocumented migrant children enrolled at schools regardless of the Phakamisa judgment.
Sub-theme 3: "Don't use our things" … A confusion and lack of respect for human dignity	The lack of basic services was explained as an infringement on the human dignity of undocumented migrant children and their parents. These basic services identified include: - The difficulty in accessing healthcare facilities because 'foreigners' are accused of overburdening the healthcare system. - The difficulty in being gainfully employed because of the lack of documentation. - The difficulty in getting stable accommodation. - Not being able to access basic education especially in public (government) schools.
Sub-theme 4: Policy Gaps	Policy gaps including existing ambiguities and misinterpretation of policies on immigration and education which has a negative impact on the equitable access to education for undocumented migrant children in South Africa. Regardless of the Phakamisa judgment, undocumented migrant children are still being turned away from schools. These schools

	still require legal status document proof to enrol the undocumented migrant children.
Sub-theme 5: The Covid-19 pandemic and its effects: A new and complicating factor	Because of the Covid-19 pandemic and the nationwide restrictions, undocumented migrant parents found it more difficult to get jobs (including informal jobs). This results in difficulty in providing for their families. The Gauteng Department of Education's (GDE) online system for school placement applications served as a gatekeeping strategy for the undocumented migrant children to access education. This is because when the data for this study was gathered, the parent participants noted that there was no way to complete the online process without an ID Number.

5.1 Problems undocumented migrant children face in relation to their equitable access to education

The key finding identified in relation to the impact of migration on South Africa for undocumented migrant children in South Africa in relation to their equitable access to education was the numerous problems faced by these children. Significantly, all the study participants highlighted that these problems were not just limited to the undocumented migrant children, but also experienced by their parents. When their parents experienced problems, the children also suffered the effects, especially because they were, as at the time data was collected in 2021, undocumented and so, without legal permission to be or remain in South Africa. This finding supports a report given by Menjívar and Cervantes (2017) on the effects parents being undocumented has on their children and families in the United States (USA). Menjívar and Cervantes (2017) found that when undocumented migrant parents experienced difficulty because of their legal status, their children also faced problems. In the South African context, it is evident that the problems faced by undocumented migrant parents has a significant impact on their children, who are also undocumented (see for example Palmary, 2019).

Along this line, most of the problems I identified in this study were experienced by the undocumented migrant children that took part in the study, as well as their parents. Having analysed the data retrieved from the individual semi-structured interview and FGD transcripts, the following problems were identified:

a) Documentation problems: "No paper, no rights!" – A conundrum

b) A cliché? Discrimination and xenophobia: "As long as you are not from here, just go back home!"
c) "Don't use our things" – A confusion and lack of respect for human dignity
d) Policy gaps
e) The Covid-19 pandemic and its effects: A new and complicating factor

In the sub-sections that follow, these are presented and discussed in detail.

5.1.1 Documentation problems: "No paper, no rights!" – A conundrum

The absence of legal documentation which allowed undocumented migrant children remain in the country was identified as a major problem. This problem was expressed by both parent and professional participants in different ways, including because of the lack of birth certificates for the undocumented migrant children; a delay by the South African Department of Home Affairs (DHA) in issuing asylum status and permits; and the fear of being arrested by the police.

Beginning with the lack of birth certificates, the parent participants mentioned that their children were not issued birth certificates at birth (for those born in South Africa). The parents believed it was important to highlight this problem because it serves as an overarching difficulty for their children, especially in relation to their equitable access to education, and other human rights. In expressing this finding, some of the parents mentioned:

> *"So, that made me like ended up not having papers literally and me not being able to access birth certificates for my kids here" (Parent 6).*

> *"So, these ones [my children born in South Africa] don't have birth certificate for here [South Africa]. They didn't give me anything because I do not have permit" (Parent 8).*

> *"They told us we have to go and get original birth certificate from your country" (Parent 5).*

Some other parents however, said that they had been able to get unabridged birth certificates[25] from the South African Department of Home Affairs (DHA), before their asylum permits expired.

[25] An unabridged birth certificate is a document that includes the details of the child as well as details of the parents. This certificate has no identification or registration of birth number. Pokroy writes that "an Unabridged Birth Certificate is a very different creature […] It is also important to note that the term "Unabridged Birth Certificate" appears to be unique to South Africa" (2016, p. 46). This means that it in comparison to international practice, South Africa is the only country that issues this kind of certificate.

"You must bring your asylum paper so that they can give you unbridged paper there's a paper that they're calling unbridged paper [birth certificate]. Me, my asylum was working that time, so I got the paper for my child" (Parent 11).

"At the hospital they didn't give me anything, but for my first child I tried to process the paper, I've got this thing they call it unbridged birth certificate" (Parent 9).

Although these parents noted that they had been issued unabridged birth certificates for their children, it turned out that these certificates (see figure 4.3, chapter 4) were not 'useful' because they could not give them access to the schools. As illustrated in figure 4.3, this certificate does not have any identification or registration number; the certificate is thus merely a confirmation of one's names. According to the parent participants, when they took the unabridged birth certificates to the schools as proof of birth registration, they were specifically told that the 'original' birth certificate was required with study permits for the children to be considered for enrolment. In addition, those who had obtained asylum permits for their children born in the country, were also unable to use the document (the DHA number on the document) to fill in details on the online Gauteng Department of Education (GDE) school placement website (this is detailed under section 5.1.5).

"They give those, what do you call those, there is this birth certificate that they give that expires, but it says that you are not a South African. But those documents, they don't work in the government for South Africa… when you get to high school, they only need a South African document, either permit or an ID, or South African birth certificate, that's it" (Parent 1).

"Because even when my child was there at a school at that time, my child was using the [unabridged] birth certificate… the A4 [one] written aliens. They told me that this paper is not allowed; they do not take the child to school with this one" (Parent 11).

When further probed, the parent participants explained that the unabridged birth certificate was also of no use because they themselves were without any legal status in the South Africa. Moreover, it was mentioned that getting the unabridged birth certificate also depended on the legal status of the parent. Asking a parent who told me that her child did not have an unabridged birth certificate, she said:

"I have tried. Before I'm using asylum and now the asylum it's expired. That time at Home Affairs the things was very rough, they were not taking people, they stopped and to the time my paper expired. So, I did not manage to take an unabridged birth certificate for here" (Parent 8).

This finding supports the findings of Sibanda (2021) and the report by the Scalabrini Centre of Cape Town (2019). Both studies revealed that to register the birth of one's child, the parents must be documented. Also, they (Scalabrini Centre of Cape Town, 2019; Sibanda, 2021) highlight that South Africa has decided not to give official birth certificates, but unabridged certificates (just a confirmation of birth) to 'foreign' nationals (whether documented or illegally in the country) which does not serve as a formal registration of birth or generate a birth certificate with an ID number.[26]

Similarly, another parent shared her experience about being unable to obtain an unabridged birth certificate for her children. For this parent, her asylum seeker permit was rejected, and this caused her difficulty in getting the unabridged birth certificate for her children. She stated:

> *"When basically I got here, I was an asylum seeker[27] but as time went on, my asylum was rejected, and it was never renewed. So, that made me ended up not having papers literally and me not being able to access birth certificates, proper birth certificates for my kids here. So, hence applying for school for them, it was an issue because they need the parents' documents and also, they need the kids documents as well and since I'm the parent, I'm not documented, I can't go to Home Affairs to say I want to have the birth certificate of my child and whatsoever" (Parent 6).*

Notions about how one's legal status in South Africa have a negative impact on other aspects of one's life are clearly raised, and so, the prevention of one's capabilities (see Robeyns, 2017; Sen, 1999; Unterhalter, 2009). By implication, the possibility of being able to achieve what undocumented migrant children consider valuable is reliant, on and can be constrained by their legal status. In turn, their legal status is also reliant on the legal status of their parents at the time of their birth. The right to be registered at birth becomes almost impossible for this group of children in South Africa. However, the right to birth registration and a birth certificate has been highlighted by the United Nations and is a platform for the fulfilment of other human rights, especially for children (see Gerber et al., 2011; Sibanda, 2021; United Nations Human

[26] See also https://www.businesslive.co.za/bd/national/2018-11-15-groups-oppose-plan-to-stop-issuing-birth-certificates-to-offspring-of-foreigners/

[27] The United Nations High Commissioner for Refugees (UNHCR) states that an asylum-seeker "is someone whose request for sanctuary has yet to be processed" (see UNHCR, n.d., https://www.unhcr.org/asylum-seekers.html). In South Africa, an asylum-seeker visa is issued to individuals who have not received refugee status in the country (Refugees Act 130 of 1998, 1998). When I collected data for my study in 2021, some of the parents who had previously been on asylum seeker visas told me that they were unable to renew the visa. Some mentioned that when they tried to renew the visa, they were asked to leave the country within 21 days. According to the UNHCR, South Africa hosts about 250,000 refugees and asylum-seekers (UNHCR, 2022a). However, what remains unclear is how many asylum-seeker visa holders or asylum-seekers on expired visas are in South Africa.

Rights Office of the High Commissioner [OHCHR], n.d.). Extending these ideas to issues on statelessness, it can be argued that without documentation, undocumented migrant children are at great risk of becoming stateless. As indicated in the review of literature (see chapter 1, section 1.4), although not everyone without documentation is stateless, however, the possibility of undocumented migrant children becoming stateless is increased. Ackermann (2018) notes that by the time undocumented migrant children within South Africa turn 18, a sense of lack of an identity is 'established' because they become unable to register the birth of their own children, or legally marry, and by extension, a lineage of 'no-documentation' is perpetuated. Sadly, based on the findings of this current study, the chance of these children becoming stateless is a reality.

Similar to the parents, the professionals who participated in the study mentioned that the DHA gave unabridged birth certificates to migrant parents within the country. They also stated that the migrant parent had to be documented (with asylum permit) to obtain this certificate from Home Affairs. One Professional who worked with the Project explained the process of obtaining the unabridged birth certificate:

> *"When you go, if you are a foreigner, once you have your valid asylum permit, you go to Home Affairs, they give them the unabridged birth certificate, the plain paper, A4 paper, just a white A4 paper, plain paper and with few parts to write and written with pen, they fill in with pen" (Professional 14, The Project).*

Just like the parents mentioned, obtaining this unabridged birth certificate was difficult for most of them because they were also undocumented i.e., their papers have expired or are here illegally. While I recognise that the unabridged birth certificate does not serve as a proper registration of birth (see Pokroy, 2016), I also note that it would be meaningful for all undocumented migrant parents to at least have this certificate (although it does not specify any registration number). This is because, to travel across the South African border with children, parents are usually required to show proof that the children belong to them. It is problematic for this group of undocumented migrant children to leave the country, with their parents, because there would be no proof that they are the biological children of their parents and are not being trafficked. These findings confirm what the African Child Policy Forum [ACPF] (2021) and Beko (2021) noted, that the outcomes of not having a birth certificate are deleterious to the development and lives of children on the African continent and have far-reaching, negative effects. As highlighted in this study and extant literature cited, the negative impact on

these children and their being denied an education in South Africa continues, despite the Bill of Rights (The Constitution of the Republic of South Africa No. 108, 1996) and the South African Schools Act (Republic of South Africa, 1996) which recognise education as a fundamental human right for *every* child. The UNESCO Education Sector (2019) describes education as a 'multiplier right' because it is one basic right that serves as a vehicle for achieving other rights and increases children's opportunities to thrive. Consequently, when undocumented migrant children are denied their right to education because they lack birth certificates, these children not only miss out on education, but many other opportunities. Their freedom to take up opportunities, including attending school, is thus constrained because of the lack of documentation. In agreement, Corbacho et al. (2012) insist that the lack of birth certificates, and effectively, the non-registration of births makes it difficult for States or governments to know the actual number of children who should attend schools; thus, the idea of 'compulsory' education in the Constitution becomes meaningless.

Regarding being able to get enrolled at schools, the professionals from the GDE stated that because these parents know that their children do not have birth certificates, some of them submitted fake birth certificates to get their children enrolled at school:

> *"I can't vouch for Home Affairs based on what I experience and have been exposed to. Fraudulent birth certificates are issued unfortunately, and it gets picked up later in the learner or child's life, when he now really needs this documentation to achieve a qualification or whatever the case is. And by then it's too late because the child has been using this fraudulent birth certificate or ID his entire life. I can't say that there are people in Home Affairs that are issuing [the fake birth certificates]. But because of the evidence of fraudulent birth certificates and IDs that we find at the provincial office, it then confirms that this is done but how and who does it we don't know" (Professional 8, GDE).*

By implication, the problem of one's birth not being appropriately registered poses a greater problem for undocumented migrant children in South Africa because parents may resort to illegal means to obtain one, which is fake.

Another major documentation problem was the fear of being arrested by the police and being arrested too. This problem was highlighted by both the undocumented migrant children participants and their parents. They considered this significant because for the children, their parents being arrested could lead to their parents' deportation, and so, separation from them

(see Palmary, 2019). During one of the FGD sessions, some of the children indicated that their parents had been previously arrested:

"They arrested my father for no crime" (Children, FGD 1, Session 1).

In trying to find out more about their parents being arrested by police officers, the children said:

"Ma'am, my father was arrested and when I went to visit him, the police asked, 'why you visit him and then me they wanted to put me inside [jail me]" (Children, FGD 2, Session 1).

The parent participants also noted the same problem about being arrested when they went to the DHA to renew their asylum permits. Here, similar to the undocumented migrant children, the parents were also concerned about being separated from their children because of the arrests that could result in deportation. Sharing a sister's experience, one parent narrated:

"They ask for money [a bribe] when she went to Home Affairs so they can give her paper and they never gave her because she didn't have the money [bribe]. That's why [she was given] that paper for going back home (said she must leave) [indefinitely leave South Africa] because she was not having money to pay them. But they rejected the application because of lack of money. She doesn't have any document; she is just like that. [The police officers] told her that "if you don't have paper we will take you, you go to the prison". And when they keep [arrest] you it is a problem. They put her in Kashoya [cell] for 3 days and then she paid money [the bribe]" (Parent 2).

Another parent with a similar experience said she also got arrested by the police at the DHA when she tried to renew her asylum-seeker visa:

"My own permit expired in 2019 because I was tired of going to Home Affairs. When you get there, they will tell you come back tomorrow, and they will give you just the stamp. When they give you the stamp, the police will still arrest you. So, I just got tired of going back to that place but now I want to apply again. They arrested me once. They took me to the station and then I paid 1.5 [1,500 Rand bribe], I came out" (Parent 9).

The fear of being arrested thus serves as a major hinderance to undocumented migrant parents seeking documentation for themselves and their children. It becomes difficult to ask these parents to seek documentation for themselves and by extension, their children.

As the data illustrates, being undocumented creates significant difficulties for these migrant children and their parents in South Africa. This lack of legal documentation thus presents itself as an overarching problem. In terms of the study's conceptual framework, it becomes apparent that the problem of 'no paper, no right' is found at the level of policy and permeates down to other levels of society. This means that frameworks and policies regarding education and immigration serve as hindrances to the undocumented migrant child's 'freedom' to do what he or she considers important, which in this specific case is access to education. With this hinderance from the top (macro-level), the distribution of educational related resources and achievement of identified functionings are constrained. Hence, the chance for undocumented migrant children to do 'freely' what they value through opportunities provided are non-existent. By implication, although participants have noted the importance of being educated and the children wanting to get educated, the misunderstanding of equitable access to education from the top constrains the agency of undocumented migrant children to fulfil this right. My attention is drawn to a nationalist ideology on what 'equity' means which supports the undocumented migrant parents' fear of being arrested. This ideology remains problematic because deep rooted issues of xenophobia are linked to nationalist views on migration and skewed perceptions about equity. In the section that follows, I provide a detailed discussion on discrimination and xenophobia.

5.1.2 A cliché? Discrimination and xenophobia: "As long as you are not from here, just go back home!"

Another major problem that undocumented migrant children face is discrimination and xenophobia. Across the different groups of participants, it was evident that the South African society continues to deal with issues of discrimination and xenophobia, especially against other black African nationals. As earlier noted, although it has been reported that this is not solely against those who are undocumented (see Chapter 1, section 1.2.2), acts of discrimination and xenophobia are usually experienced more by undocumented migrants because they are in vulnerable positions. This problem presented itself in diverse ways, including through bullying undocumented migrant children and their parents in their communities. During FGD sessions with the children, the following quotations illuminated this problem:

> *"Every day when I go to the shop, when I'm buying something, these other boys they're like five or ten boys they're like pulling me when I'm buying something. I take biscuit, they like pulling*

me afterwards that guy pull the biscuit bag and then they like saying, nginike imali, nginike imali[28]*" (Children, FGD 3, Session 1).*

"And also, me at my place because they will be busy asking me if I don't have money, then they push and they slap me, I run away, that's why I don't play outside" (Children, FGD 3, Session 2).

For the undocumented migrant children, being bullied involved being shamed because they were considered 'foreign'. The idea of being 'foreign' serves to 'other' individuals and groups of people who do not 'belong' promoting nationalism. What remains significant is that when explained through the study's conceptual framework, a 'nationalist understanding of equity' excludes individuals who are not considered members of the nation. This nationalist description of equity is exclusive to the South African context where 'equitable' access to resources "simply means the transfer into native hands of those unfair advantages which are a legacy of the [apartheid] period" (Fanon, 1990, p. 151). This means that foreignness and difference will continue to be reinforced through the behaviours of those who are South African nationals to further highlight the nationalist reality of 'us' versus 'them'. Equity from this viewpoint would be defined as fairness for those 'who belong'. This is a false sense of equity, it is discrimination.

Also, bullying is both subtle and pronounced within the undocumented migrant children's communities, and in their interaction with other children. The finding here support findings in a recent study by Chiyangwa and Rugunanan (2022). However, while the undocumented migrant children in my study reported bullying within their communities, Chiyangwa and Rugunanan (2022) revealed that the migrant children who took part in their study experienced this discrimination and bullying in the school they attended as well. This indicates that acts of discrimination go beyond local communities, into schools. Within communities and school spaces (for those fortunate enough to be enrolled), bullying is used as a discriminatory act against migrant children. In similar vein, a study conducted by Kumar (2019) in Kentucky, USA also revealed that the identified group of children were bullied for being 'different'.

[28] "Nginike imali" means "give me money".

The parents also reported the problem of discrimination and xenophobia, experienced in a more complex way than the children. One of the parents mentioned that she had heard good things about the country before arriving; however, this had not been the case:

> *"You see, it's a problem, it's a story for xenophobia. Xenophobia in South Africa is affecting us who come here to rest. Was listening in the town when I was small [that] South Africa is peaceful, that people they are very friendly, they are very lovely, but the time I arrive here, I didn't see that thing" (Parent 3).*

This parent's experience begins to raise notions of hopes and more accurately, 'aspirations' that these undocumented migrants might have before coming to South Africa. Here, the concept of aspirations forms part of the ideas considered in the capability approach and issues of migration (see de Haas, 2021) which includes the reason why people move across international borders. For instance, de Haas (2021) states that

> an individual might set their aspirations in relation to what they know they can achieve, or more ambitiously to strive for ways of being and doing they are not sure of realising. Some individuals might aspire in a non-specified way in terms of wanting "a better life". (pp. 326-327)

Parent 3 in my study aspired for a 'better life' in South Africa; however, her aspirations have been constrained by the structural limitations in the country. Highlighting these limitations is important for understanding the extent to freely achieve what is valued (capability) and how this freedom can be expanded.

It was also found that the problem of discrimination and xenophobia extended to the struggle for renewing one's document as an asylum seeker within the country.

> *"2012 they were starting for xenophobia, what, what... that was where I was stuck with my paper, yes. That's where I stuck with my paper" (Parent 8).*

> *"Too much, very bad. I remember it was two years past I went to Home Affairs, that day was only God. That side for Home Affairs in Pretoria, I will not forget that day. They were beating people, people you see no bag [stealing bags], taking everything [including] your phone, no one is come say no, no need this, don't do this" (Parent 11).*

This particular finding can be viewed through the lens of the high level of securitisation in South Africa. In the case mentioned by Parent 11, this high level of securitisation allows incidents of police criminality to go unpunished and no one is held accountable for wrong against 'foreigners'. Such continued cases also compare with heightened xenophobic attacks

and increased structural forms of discrimination. Structural discrimination refers to a systematised form of discrimination embedded within institutions of a particular state. According to the participants, the system had made it a difficult task to renew asylum permits which resulted in them being 'totally' undocumented. Amit (2022) argues that:

> The securitisation of migration [in South Africa] includes a more expansive definition of who is an illegal migrant and a narrowed scope for obtaining legal migrant status. As a result, migrants and refugees are often unable to access the rights guaranteed to them by law. (p. 649)

Thus, as this study shows, while South Africa appears to acknowledge the role of migration for the development of the economy, the nation continues to portray migration as a threat to itself, which further heightens the level of securitisation within the country (see Khan & Rayner, 2020). Difficulties then will continue for undocumented migrant parents in trying to renew their asylum permits. This means that for these parents, their children will also remain undocumented, and should more children be born to these undocumented parents, they also become 'illegal' (see Scalabrini Centre of Cape Town, 2019). The chance of these children being educated is thus nearly impossible due to this problem.

Beyond the struggle to renew one's document, another display of discrimination and xenophobia described by parent participants was that non-nationals were given the distinct impression that they did not belong in certain areas. For instance, one parent lamented:

> *"Like in [one area], I was there and then actually they wanted to attack the father for my kids and then I'm like, no, he's not doing anything that is illegal. We are fine and then they're like, see, you know, it's a place for [a specific tribe] and then they say, see, we don't want you, we don't want, you must go. And then I'm like, okay guys, let us go because they come straight to the house where we're staying. Let us go; and I can't lie [to be honest], that day we just woke up around two [2am], we left [the area], we came back to Joburg. We were just stuck in one place, we don't have where to go until when I just remember my sister had just come from [my home country] and then I called her she's the one who said okay, you can come and stay in my sitting room" (Parent 9).*

Again, nationalist sentiments are clear. The othering of non-nationals makes the distinction between those who are members of the South African community and the 'outsiders'. This display of xenophobia was also indicated by the professionals from the Project and the SAHRC who participated in the study. I realised that professionals from the GDE were not willing to discuss issues on discrimination and xenophobic attacks. This was obvious from the redirection of questions on xenophobic attacks by some GDE officials, while others refused to comment

on issues of xenophobia. I think that because this group of professionals represent the government, they would be unlikely to 'speak' ill about the realities of xenophobic acts in the country. For the Project staff and SAHRC professional, some noted that the problem has been long-standing, others gave examples of how the problem has an impact on parents, and others described how deep the issue is rooted within South African society. Significant is that both staff at the Project and the SAHRC confirmed that the issue of xenophobia does exist and serves as a hinderance to undocumented migrants being able to achieve what they value.

> *"This has been a very big issue in South Africa over a long period of time. So, I'm sure for the children it does impact them. Also, if there are eruptions of violence, then obviously their physical safety has to come into account, it could be very traumatic for them" (Professional 5, The Project).*

> *"It does affect them. When there are these xenophobic attacks, you can't go outside when you are a foreigner, you feel like, what if they chop me out there, what if they burn me alive? You are forced to stay inside the house, you can't go and work, yet the children need food, but you can't go out, you are afraid of what will happen to you" (Professional 10, The Project).*

Raising concerns about the kinds of discrimination that xenophobic attacks create in the society, a SAHRC staff expressed the following:

> *"We can get discrimination in two directions. We can get vertical discrimination when we talk about, you know, institutional discrimination, structural discrimination. And that's something that you likely dealing with a lot here. And also, similarly, horizontal discrimination. So, when we, for example, discriminate against each other, or use hate speech to describe the other, and so forth. And the research at the commission observed that vertical and horizontal discrimination operate almost in a vicious cycle. So as long as our structures have these discriminatory and unjust elements in them – the structures of our society – it creates a narrative where on the ground, people seem to think that it's okay to discriminate in that way" (Professional 12, SAHRC).*

Ideas on vertical and horizontal forms of discrimination, institutional discrimination, and structural discrimination are raised here. These forms of discrimination specifically highlight the levels of 'inequity' in the South African society (both macro and micro). So, at a vertical, institutional, and structural level, discrimination and xenophobia are both explicitly and implicitly embedded in the fabric of society through policies, institutionalised norms and values, and high levels of securitisation (see for example, Amit, 2022; and a report from the

Centre for Unity in Diversity, 2019). Providing examples of both vertical and horizontal forms of discrimination in South Africa, the same professional said:

> *Now, for me, xenophobia is a very serious example of how vertical and horizontal discrimination intersect, and often manifest as egregious violence and even murder on the ground. Because we keep getting these spurts of xenophobic violence and attacks, both lives and livelihood of non-nationals are destroyed. So, foreign owned shops are looted. People are burned alive or killed in other ways, or whatever the case might be" (Professional 12, SAHRC).*

At a horizontal level, physical incidents of violence erupt; these incidents mostly result from the vertical level of discrimination. Another point that is raised from the quotation is the intersection of vertical and horizontal forms of discrimination which bring about xenophobic attacks and attitudes. Just as illustrated in the study's conceptual framework, policies, and political structures form top-down (vertical) manifestations of the extent to which undocumented migrant children can achieve what they value. Through actions or inactions directed by these vertical limitations, horizontal (community-based, and among individuals) discrimination thrives. These forms of discrimination also inhibit individual agency and the desire to flourish. Discrimination of undocumented migrant children, their parents, and other non-nationals is thus seen as a means to end the problems associated with allowing 'other' within the South African borders. This goes against what equity represents from the perspective of the capability approach and Unterhalter's explanation of equity.

Similarly, both parents and professionals from the Project and SAHRC explained how xenophobia and discrimination were perpetuated at a vertical level. They said that through discriminatory statements made by individuals in authority, violence against other black non-nationals is supported and occurs. One of the parents mentioned that rhetoric of 'foreigners' being the problem was prevalent. She said:

> *"And if you want to check when they [politicians and those in positions of power] are talking, they say no its foreigners, foreigners are robbing, foreigners are doing this, they will start blaming foreigners" (Parent 8).*

In terms of politicians making xenophobic statements, an online news article (Isilow, 2021) stated that some politicians used 'anti-immigrant rhetoric' to campaign for elections.

Another campaign that is driven by anti-migrant, xenophobic sentiments is Operation Dudula.[29] In a news article, it was reported that the anti-migrant group had started to target migrant children because the group believes that the GDE school budget is meant for *only* South African children (Washinyira, 2023). Regarding education too, Hanna (2022) notes that the discrimination and xenophobic violence in South Africa reduces the possibility of undocumented migrant children accessing education. This means that xenophobic eruptions make it a more difficult for children, who do not possess the required documentation and are foreign, to be enrolled in public schools.

The professionals from the Project and SAHRC expressed similar ideas to the parents. One of the professionals from the Project said:

> *"This has everything to do with politics, this has everything to do with the government" (Professional, The Project).*

Providing a more detailed explanation of how increased levels of securitisation result in xenophobic attacks, a professional from the SAHRC said:

> *"…but unfortunately, we [are] also sitting in a situation where we have public officials, who often make xenophobic statements, but then deny xenophobia, something that exists. And then, of course, we have [an individual], who posted some things on social media while he was still the mayor, and basically indicating that it's foreign nationals that come to South Africa and are responsible for committing all the crimes here in South Africa. So that kind of narrative when it comes from a public government official, and I think it can be equated with structural discrimination" (Professional 12, SAHRC).*

What remains concerning is that there is seemingly nothing definitive being done to curb or address the problem of discrimination and xenophobia, especially as it relates to statements made by those in authority. This supports a study conducted by Tarisayi and Manik (2020) who found that there is both denial and no action taken by the South African government to persecute those who continue to make xenophobic statements. Masikane et al. (2020), as well as Olofinbiyi (2022) also note that the South African government, political leaders, and

[29] According to a report from Aljazeera in July 2022: "Operation Dudula is a splinter group from a faction in the 'Put South Africans First' movement, an organisation that first popularised and renewed anti-immigrant campaigns on social media before finding expression on the ground. The new movement is led by a 36-year-old and labelled by some as "xenophobic and dangerous", and was founded in Soweto" (https://www.aljazeera.com/features/2022/4/8/what-is-operation-dudula-s-africas-anti-immigration-vigilante)

community-based leaders have not taken definite actions to address xenophobic violence. Along this line, the 2022 World Report indicated that South Africa did not ensure justice for xenophobic violence (Human Rights Watch, 2022).

These inciting statements and violent attacks have impact negatively on equitable access to education for undocumented migrant children. Even though these group of children are unable to access regular schools, xenophobic attacks further prevent them from attending even bridge educational programmes such as the Project. As a long-standing problem, professional participants noted that xenophobic attacks were 'usual' and occurred at both community-based and institution-based levels. The professionals from the Project detailed how these attacks serve as a hinderance within communities. The attacks serve as a detriment to undocumented migrant children and their parents in terms of being able to carry out their daily activities and even attend schools. When xenophobic attacks start, the undocumented migrant children are unable to walk from their homes to designated bus stops where the Project's transport usually picks them up. Some of the professionals said:

> *"Most of them [the undocumented migrant children] don't come to school because they are afraid, and their parents prefer keeping them inside the house because they don't know what will happen if they go out" (Professional 11, The Project).*

> *"…if there are eruptions of violence, then obviously their [undocumented migrant children's] physical safety has to come into account, it could be very traumatic for them. Also, like getting to school, it becomes difficult. So, just like the transport getting there, fetching them safely, bringing them back safely, it could also just impact on their access to learning and education" (Professional 5, The Project).*

This finding supports other studies, including Blessed-Sayah (2020); Blessed-Sayah et al. (2022) and Osman (2009). One of the studies (Osman, 2009) found that xenophobic attacks meant that undocumented migrants could not be productive in society. Beyond just being productive, the study (Osman, 2009) also highlighted the detrimental effect of the attacks on the equitable access to education for undocumented migrant children. It becomes clear how structural limitations at different levels of the society can impede the expansion of capabilities (Robeyns, 2017; Sen, 1999; Unterhalter, 2009). Hence, as stated earlier, the capability of undocumented migrant children to achieve their functioning of attending school, in an equitable way is prevented.

Experiencing discrimination also partly explained the problem of the lack of equitable access to education. This was an important finding because the parents believed that the way 'foreigners' were being marginalised contributed largely to issues of access to education. One of the parents lamented as she shared an experience:

> *"…we go to this school, we go to that school, until when all of us give up; they're lying, it's a lie [that you can access the schools]. Even when you go to the school, the way they approach you, once they see you are speaking English, you can't speak [a local language], the approach is not good. Like when they see you first time you are foreigner, is like you are wasting your time, they will even show it to you. You don't have a space here; you are not welcome here" (Parent 9).*

Providing a detailed explanation on how this problem has an impact on equitable access to education, one of the professionals from the SAHRC said:

> *"…one can deduce that a school despite the Phakamisa judgment[30], despite the DBE [Department of Basic Education] circular[31] that was issued shortly thereafter, thought it okay to turn children away. And it could be ascribed to xenophobic attitude, or an attitude of non-nationals or foreign nationals are placing an excessive burden on our really stretched schooling system or public schooling system. If a non-national parent now goes to a police station, to try and get an affidavit for this child as some form of identity, that police station that police officer is not going to be aware of the documents or judgment in the DBE circular as the ambiguity with the Immigration Act, you know, so they're just going to encounter secondary victimisation and discrimination. In terms of access, I think the two most areas of concern are with undocumented migrant children being even more vulnerable than, you know, undocumented South African children" (Professional 12, SAHRC).*

In relation to the conceptual framework used for study, it becomes apparent that equity from the top and the capabilities of undocumented migrant children are closely linked. For undocumented migrant children to access education in an equitable manner within South Africa, there must be a top-down approach for the reconstruction of how migrants are viewed, and there must be the recognition of the personal circumstances of children who are

[30] The Phakamisa Judgment was passed by the High Court of South Africa in the Eastern Cape province in 2019. It was clearly stated that all children (regardless of their legal status) must be allowed to enrol at schools even though they are unable to provide birth certificates. See also chapter 2, section 2.5.

[31] The DBE published a circular that was addressed to Heads of Provincial Education Departments; Heads of Provincial Governance Sections; District Directors; School Governing Bodies; School principals; and all South African Schools Governing Body Associations**.** See https://www.education.gov.za/Portals/0/Documents/Publications/School%20Governance/Circular%201-2020%20(undocumented%20learners_EC%20High%20Court%20judgment_%20Phakamisa....pdf?ver=2021-10-19-161139-797

undocumented migrants. This means that policies must be put in place to ensure that functionings are achievable; and beyond policy level, there must be implementation (including persecute individuals who consistently portray migrants as threats). In addition, the findings highlight the role of the meaning attached to equitable access to education. This meaning excludes undocumented migrant children from being part of 'all children' as expressed in the South African Bill of Rights (see The Constitution of the Republic of South Africa No. 108, 1996) as it relates to the right to education; this is not equity.

From the above findings, a major problem that has an impact on equitable access to education for undocumented migrant children in South African society is the continued discrimination and xenophobic attacks and attitudes towards this group of children and their parents. While the problem remains deep rooted, especially politically, other problems have also been mentioned including the lack of basic services which I now discuss.

5.1.3 "Don't use our things" – A confusion and lack of respect for human dignity

This sub-heading is related to the finding on the as a difficulty experienced by undocumented migrant children and their parents. The reason for the sub-heading title is because, from this finding, the overarching idea is that undocumented migrant children and their parents are considered to not be entitled to use basic services while in South Africa. Various basic services were described to be difficult to access including healthcare, housing, and education. This lack of access to basic services negatively affects undocumented migrant children's equitable access to education. This problem was mostly indicated by the parents and professional participants. For the parents of undocumented migrant children, the difficulty in accessing these services served as barriers to ensuring their children are given an equitable chance to get enrolled at schools and health. The professionals, especially from the Project and SAHRC believed that accessing basic services is a right in itself. However, the GDE professionals indicated that there was a need for parents to do their best to ensure their children can access the services. This position is different from the other professionals because it illustrates a surface-based response to the deeply rooted difficulties undocumented migrant parents face especially in relation to their legal status. The findings on the lack of basic services including lack of access to healthcare, stable accommodation, and education are detailed below.

Healthcare

Both parent and professional participants revealed that it was difficult for undocumented migrant children and their parents to access healthcare in the country. Professionals from the Project explained this problem in a clear way because they were in closer proximity to the undocumented migrant children and their parents. Two of the professionals said:

> *"Also, for some of them when they try and access the public [healthcare] system in the country… they will struggle to access medical care if they need…" (Professional 2, The Project).*

> *"Even to go to the hospital, they will ask you to bring your document, and when you don't have, it means you just have to stay at home, you are forced to stay at home. You can't go to the clinic, you can't go to the hospitals, so life becomes hard when you don't have documents" (Professional 10, The Project).*

A professional from the Project narrated her experience on how she had initially struggled to be hospitalised and was badly treated. She specifically mentioned that, at the time this happened, her asylum seeker visa had expired. This context is because, evidently, access to healthcare is difficult for those who are migrants and undocumented in South Africa. Sharing her experience, she said:

> *"The sisters [nurses], they were like I would have attended to you, but we can't because you are not on our list. Finally, when she came, she wasn't nice to me, just being aggressive. Then I'm like the baby's coming, then she is like shut up, you cannot teach me my job these days…" (Professional 14, The Project).*

This difficulty of access indicates structural discrimination that is evident within State institutions. At an institutional level, discriminatory practices, and policies lead to a lack of access to services especially for specific disadvantaged groups (Cunningham & Light, 2016). Even though discriminatory policies might change, discriminatory behaviours by those who work in such institutions may never change especially when policy amendments are not fully implemented, monitored, and evaluated, and individuals are not held accountable for their actions (see Cunningham & Light, 2016).

The lack of access to healthcare for undocumented migrant children and their parents is also related to the issues of discrimination and xenophobia. In the South African context, discrimination against black migrants plays out through a high level of securitisation, often

through speech acts. Statements made by political leaders reinforce discrimination and incite xenophobic attacks. Concerning such discriminatory statements, one professional said that:

> *"It was the Minister at the time that said that foreigners come to South Africa, and they overburden our public healthcare systems. And so yes, I think if we look at the healthcare system, what previous politicians have said about foreign nationals in the healthcare system, and about the secondary victimisation, discrimination that people or non-nationals experienced in accessing health care services, and I think that is certainly at least partially responsible for that inaccessibility of children to schooling" (Professional 12, SAHRC).*

By implication, the lack of access to healthcare is partly a result of both structural and institutional forms of discrimination. These forms of discrimination are evident through the behaviour of healthcare workers and statements made by those in political authority in the country.[32] This particular finding has been made by many other studies (see Alfaro-Velcamp, 2015; Mutambara & Naidu, 2021; White & Rispel, 2021). The current study further confirms that through discriminatory practices, undocumented migrants find it difficult to access a basic service, such as healthcare. Evidently, the right to healthcare, as enshrined in the Bill of Rights (The Constitution of the Republic of South Africa No. 108, 1996), is ignored for those considered 'not part of us'. The inability of undocumented migrant children, and their parents, to access such basic service further compounds their problems, especially as it relates to accessing education, being healthy. Sen (1999) notes the lack of such services as serve as a "deprivation of freedom" (p. 15) because without access to basic services, individuals are unable to be "fuller social persons, exercising their own volitions and interacting with – and influencing – the world in which we live" (p. 15).

Stable accommodation

The lack of proper housing and stable accommodation was another lack of basic services identified. One of the parents expressed how she struggled to find stable accommodation because she could not afford the rent:

> *"I came to live here because I lost everything, I couldn't manage to pay the house, I had to leave the house and come stay here, you see, yeah. So, those are the problems I am facing until now" (Parent 1).*

[32] For instance, the Limpopo MEC (Member of Executive Council) for health in 2022 specifically targeted a migrant patient as the reason for the failing health system. See https://www.news24.com/citypress/news/watch-limpopo-health-mec-slammed-as-an-afrophobe-princess-20220824

Another parent, as soon as she was asked about the problems that affect her children's chances of being educated, mentioned accommodation problems.

> *"Number one, the problem I face in this country is accommodation problem. For the accommodation problem that time, I was just managing in some way, let's say it's like I'm doing salesgirl for them. That person in Braamfontein at the time. But I didn't spend too much [time there], maybe just like two months, then after that, I came back to the streets. I was mainly selling banana [and] orange by the streets, I was sitting down there for good five years" (Parent 4).*

This problem compounds the difficulty in accessing equitable education because parents need to be able to provide proof of address for their children to get enrolled at schools within their resident areas. Concerning this, a professional also mentioned the lack of stable accommodation as a problem:

> *"What we also realised is that these children, usually undocumented, don't stay at a place very long, they jump around in addresses which creates huge access problems in terms of geographically being close to the school. So, the children end up not attending school as required because they will not be able to reach school at the specific time when they attended at a specific address but they jump around a lot in terms of residence which also creates another problem because even if they managed to sort themselves out at the clinic eventually, they would move away and the need to find another, and in schools, that would be the same thing" (Professional 6, GDE).*

Furthermore, even if these undocumented migrant children enrolled at a bridging facility, like the Project, it is difficult for them to still get an education and perform well without proper, stable housing.

> *"It [accommodation] is a major problem; for example, with our learners here, most of the parents are living in abandoned buildings, you see those buildings that are abandoned houses, so once the door is open, they go in. No electricity, no water, they stay there. So, they will be the one, they explain ma'am, we don't have candle, that is why I didn't do my homework, there is no candle. There is no paraffin" (Professional 14, The Project).*

The problem of accessing housing has also been noted by Mokabati (2021). The study focused on African female migrants specifically, and Mokabati (2021) found that it was more difficult for them to access housing despite "the implementation of the policies and the development strategies that have been adopted" (p. 156). For example, *everyone* has the right to appropriate housing under the Constitution of the Republic of South Africa No. 108 (1996), which makes

it critical for the government to take the required legal measures to ensure that the constitution is followed. In response to the Constitution, the State implemented programs to assist with access to suitable housing through the Housing Act of 1997 (Act No. 107 of 1997). This problem of housing compares to the problem of discrimination which further illustrates the nationalist perspective of what equity means in the South African context. In relation to the study's conceptual framework, I recognise that "being sheltered in a safe way… is a universal functioning" which should not be dependent on "the social circumstances in which one lives" including one's legal status in any given country (Robeyns, 2017, p. 40). However, in the context of South Africa achieving such a universal functioning is constrained because of one's legal status. Although the specific finding on the relationship between housing, as a functioning and being educated (which is also recognised as a universal functioning), has been highlighted from this study, extant literature on the relationship between the lack of housing and access to education for African migrants in South Africa was not readily found. This suggests as a gap in research on undocumented migrant children, equitable access to education and accommodation. Hence, while this current study has identified this difficulty, future studies would need to take the relationship between lack of housing and equitable access to education further.

Education

The continued difficulty in accessing basic education because of their legal status in the country was also identified. This was mentioned by the parents and professional participants. Parents noted that the uncertainty about their children being able to attend school because of their lack of proper documentation, as required by the Admission's Policy (Admission Policy for Ordinary Public Schools, 1998). This had a direct impact on their chance to access education. A call for comments on the amendment of the Policy (Admission Policy for Ordinary Public Schools, 1998) was rolled out by the minister of Basic Education in 2022 after the Phakamisa judgment. However, when I collected data for this study, the document requirements for getting enrolled at schools for foreign children were still in place. Narrating her experience, one of the parents said:

> *"The most problem is to send the kids to school; is not easy at all. Because we are foreigners and we don't have a paper, so, I faced some problems in the aspects of taking my children to school. When I tried to put them in the school, they need asylum paper. I tried to make it, I have it before, like two to three years [ago], but they [Home Affairs] stop to renew for me again, they didn't renew for me again" (Parent 4).*

The quotation above illustrates the extent to which undocumented migrant parents understand the effect of being undocumented. So, although access to education in an equitable way is the focal point of this study, the inclusion of this as a problem in this chapter shows the depth to which participants understood the ripple effect not having documents has on a lack of access to education would have on undocumented migrant children in South Africa. In spite of the Phakamisa Judgment (2019), this study found that undocumented migrant children were still refused enrolment into public schools. This is similar to other studies that have noted the problem of a lack of access to education for the identified group of children (see for instance Broughton, 2020; Washinyira, 2021). My attention is thus drawn to recognising 'being able to get an education' as a universal functioning which should not be dependent on any circumstance (see Robeyns, 2017). Being able to be educated in the South African context is illustrative of how social arrangements serve to promote the expansion of an education capability.

For the professional participants from the GDE, there seemed to be an assumption that *all* children are equitably allowed to access education, regardless of their legal status. This was important for me because assumptions like this imply a denial of the reality undocumented migrant children face at a government-based level and within institutions. One of the professionals from the GDE said:

> *"Well, it is they [parents of undocumented migrant children] who are negligent if the children are not in school because we allow that as South Africa. We have not denied any child an opportunity to be educated" (Professional 8, GDE).*

Contrasting views to the one made by the GDE Official above were noted by the professionals at the Project and SAHRC. One professional from the Project said:

> *"Not all children; the migrants, the foreigners, they don't have the equitable access to education. For example, both parents from a foreign country, they are migrants in South Africa here. For them to get a public school for the children if the father is not having a proper document nor the mother, it's a bit difficult for them to enrol their children in the government setting, the government schools" (Professional 14, The Project).*

This contrasting view between the GDE professionals and the professionals at the Project and SAHRC illustrates my observations made in chapter 4, section 4.1.3. In this instance, the GDE professional 8 mentioned that the parents of 'out-of-school' undocumented migrant children

were negligent. On the other hand, the professional from the Project provided an explanation to show the difficulty attached to getting one's undocumented child enrolled at school. Again, my attention is drawn to how such difficulty serves to promote exclusion of those who are considered outsiders South Africa. The freedom to achieve 'being educated' as a universalised functioning is thus constrained through assumptions made by individuals within government institutions. Beyond the individuals, through contradictory policy positions (as highlighted in the introduction and in chapter 1, section 1.4) that the government seems unable (or unwilling) to resolve. It is therefore more of a 'collective indifference' from the government and individuals within government institutions. This exacerbates issues of discrimination and xenophobic attitudes toward undocumented migrant parents and their children.

Another position considered was in terms of undocumented migrant children who have learning problems or perhaps, special needs. To get allocated to a special school or to determine the extent of the child's disability, the Department of Basic Education requires that the child be seen and diagnosed by a medical practitioner (see the Screening, Identification, Assessment and Support Policy by the Department of Basic Education, 2014). However, due to the already stated difficulty in accessing public healthcare services, it becomes almost impossible for the child to get the required attention. Hence, undocumented migrant children are not considered for possible placement in special schools. As at the time the discussion for this chapter was written up, I was only able to find one report that indicated this same difficulty concerning undocumented migrant children with special needs. The report was compiled by Human (2022) and highlighted the fact that disabled children who were without birth certificates and identity documents found it difficult to access basic services, including education. By implication, what undocumented migrant children value and hope to achieve (equitable access to education) while they remain in South Africa, becomes unattainable because of the difficulty caused by the lack of access to basic services. To illustrate this argument, one of the Professionals from the GDE gave this detailed explanation:

> *"From a human rights perspective, they need access to schooling, the problem usually comes with that whilst parents report the children have a disability, and in some cases it's visible, one of our requirements is that there must be a confirmation of the disability which requires all these people to have a kind of medical diagnosis or psychological diagnosis and in many cases, children have no documentation. So, when the medical confirmation is not available, many of these people struggle to produce the documentation which makes it difficult for us to place because for us, pre-requirement is to have evidence. So, there is usually some delay because they*

may need to start arranging confirmation. For example, if a parent comes forward and says I need a school for my child and the child has autism, then we need some kind of evidence for that, whether it's medical or psychological report and most of the time the children or the parents can't produce that. So, it's not just about placing them in the school, then when it comes to placing them in the school, the schools also find themselves in a catch too, because Home Affairs has punitive measures for schools which enrol children without documentation but as a department of education, we know that all children have the right to access education and there's case law in that but it's just not an easy thing" (Professional 6, GDE).

Overall, the lack of access to education, and other basic services, was explained as an infringement on the rights and human dignity of undocumented migrant children in South Africa. This is considered important because regardless of one's legal status, individuals must be treated with respect. Here, respect means the recognition of one's dignity which is not based on any determining factor; Kant (1994) highlights this point. A professional from the SAHRC explained:

"Just for interest's sake before I go deep into that matter, there were also other rights that were implicated and infringed upon, according to the court in Phakamisa; it wasn't only the right to a basic education on the issue of the basic interests of the child. But the court also found that the right to human dignity of the learners had been infringed upon. And then the court found that children have their own human dignity; it is not assessed or dependent, in light of the actions of the parents, which I think is quite an important point to make. This right also implicated the right to equality, according to court" (Professional 3, SAHRC).

The detailed explanation from the SAHRC professional implies the need to consider human dignity in light of a human development approach to ensuring equitable access to education and other basic services for undocumented migrant children in South Africa. A starting point would be to *acknowledge* the inherent value of vulnerable members of the society and demonstrate this acknowledgment by implementing the principles enshrined in the Constitution (Sen, 1999; Walker & Unterhalter, 2007). So, as an overarching explanation under the lack of basic services, this study found that denying undocumented migrant children and their parents access to basic services was an infringement on their human rights, and their human dignity. The South African government must adhere to the stipulations within the Bill of Rights: Section 7(2) that states that "The State must respect, protect, promote and fulfil *the rights in the Bill of Rights*" (The Constitution of the Republic of South Africa No. 108, 1996, emphasis added). This was clearly articulated by one of the professionals who participated in the study. The

finding on recognising the human dignity of undocumented migrant children supports the outcomes from the Phakamisa Case as highlighted in chapter 1, section 1.5.[33] To be clear, human dignity refers to the notion that every human being is inherently valuable and of equal worth; hence, regardless of race, tribe, religion, dis/abilities, gender, or perceived class, everyone must be treated with respect (see Carozza, 2012; Soken-Huberty, n.d.).

By extension, in terms of access to education, respect for undocumented migrant children's dignity, must be accorded to them regardless of their legal status in South Africa. This recognition supports the need to uphold their right to equitable access to education which, as has been noted, further links to ensuring other human rights are achieved, and that what the child values is considered (see Saito, 2003). Within South Africa, through a clear understanding of the significance of education as a fundamental human right, consensus at different levels of society can be made to ensure that every child is allowed to fulfil his or her right to education as a 'human being'. This relates to the conceptual framework which highlights the link between the agency of undocumented migrant children (appreciation of their differences in relation to their specific context) and their freedom to achieve what they value (which is access to education) in an equitable manner. Succinctly, through the lens of the study's conceptual framework, it is evident that in order to ensure equitable access to education the agency of undocumented migrant children must be recognised in order to allow them to thrive and achieve what they want to and value.

5.1.4 Policy gaps

Another identified problem was the disparity between policy and practices. Policies referred to here are those that relate to immigration, as well as access to education. The disparity was expressed in terms of policy ambiguities; a misinterpretation of policies; and the under-resourcing of schools.

In terms of policy ambiguities, professional participants especially noted that schools did not have clarity about what the different policies state in relation to access to education. For instance, although schools have been directed to enrol undocumented migrant children because

[33]See https://section27.org.za/wp-content/uploads/2019/09/Heads-of-Argument-FINAL-09-09-2019.pdf

of the Phakamisa Judgment, the Department of Home Affairs (DHA) still expects children attending schools to have the required paperwork. One of the professionals said:

> *"So, it's not just about placing them in the school, then when it comes to placing them in the school, the schools also find themselves in a catch too, because Home Affairs has punitive measures for schools which enrol children without documentation" (Professional 6, GDE).*

The question that arises from this finding is whether the DHA is adhering to the court ruling. It is evident that this may not be the case in every city or province in South Africa. I argue that the failure to uphold recent court rulings can be explained at the nationalist level perspectives on migration which has been woven into the fabric of society. The ambiguity, as the SAHRC professional says, was reported by international organisations and is a form of vertical discrimination.

> *"And international treaty body committees like the UN Committee on Economic, Social and Cultural Rights [UNESCO], has made comments or recommendations on some laws that are so discriminatory in South Africa. And they likewise specifically made one about undocumented migrant refugee and asylum-seeking children. The UN committee estimates that about 30% of these children were unable to access schools in South Africa. So, if we're looking at current laws and policies, then the interpretation of the Immigration Act that is favoured by the Department of Home Affairs is an example of vertical or structural discrimination" (Professional 12, SAHRC).*

Professional 12 who worked at the SAHRC also noted that the policy ambiguity had an impact on the chance of undocumented migrant parents getting any document to prove the identity of his or her undocumented child. Also, I note that beyond failure to uphold recent court rulings, ignorance on the part of government officials about these rulings has an impact on the implementation of the court rulings.

> *"So, in terms of structural discrimination, it might not be in black and white, it might be embedded in policies… If a non-national parent now goes to a police station, to try and get an affidavit for this child as some form of identity, that police station that police officer is not going to be aware of the documents or judgment in the DBE circular as the ambiguity with the Immigration Act, you know, so they're just going to encounter secondary victimization and discrimination, once again, in trying to get something in lieu of official documentation" (Professional 12, SAHRC).*

These findings reveal a mismatch between policy and practice, specifically in relation to equitable access to education for undocumented migrant children in South Africa. One aspect of this gap was explained in terms of policy ambiguities. It was noted that while the Phakamisa Judgment states that no child be refused access to education, schools 'seemed' not to have been informed about the decision; hence, children were still turned back from schools. More so, it was found that the DHA has punitive measures such as fine payments for schools that enrol undocumented migrant children. Similarly, in an early study, Palmary (2009) noted that school principals were required to pay fines for enrolling undocumented migrant children. Although years have passed, it remains questionable whether the payment of fines is still the case regardless of the recent Phakamisa ruling. From the finding on policy ambiguities, participants indicated that a form of vertical discrimination is acted out on undocumented migrant children within South Africa. This finding implies that a systematised form of discrimination (which on the one hand, the courts try to redress, and on the other hand, institutionalised procedures try to maintain) significantly reduces the undocumented migrant child's opportunity to access education in an equitable manner. Although slightly different, a study that focused on children in South Africa with refugee status (Mulunda, 2019), found that schools *did not know* that migrant children with refugee and asylum status did not require study permits. Thus, for children who have no legal documentation, there would be increased difficulty in explaining to the schools themselves if these schools are not aware of recent rulings about enrolment of undocumented migrant children.

In terms of the Phakamisa Judgment, recent online magazine and newspaper articles have reported that despite the ruling, undocumented migrant children are still being turned away from schools in South Africa (see Broughton, 2020; Washinyira, 2020, 2021). This strengthens the findings in the current study about schools not seeming to 'know' about the ruling. The question remains whether schools have not been informed, or if schools are more concerned about what the DHA would do if they enrolled the undocumented migrant children. When reviewed in terms of the conceptual framework, it becomes apparent that when equity is not understood from the top (policies and legislations), the freedom to participate in valuable activities becomes almost impossible for those who are vulnerable. Here, it is evident that, because of policy gaps and existing ambiguities, undocumented migrant children are unable to equitably access education in South Africa.

More evident policy ambiguity was the misinterpretation, and the lack of understanding of the policies by officials, and parents of the undocumented migrant children. For instance, when government officials interpret the Immigration Act (Republic of South Africa The Presidency, 2002) to mean that undocumented migrant children cannot access education, it becomes problematic for the children to have equitable access to education.

> *"Now, despite all that is contained in our Constitution, and with the Phakamisa judgment, we are still sitting with a situation where schools and other policy makers and decision makers and government officials would interpret the immigration so as to exclude children, non-national children from accessing education in South Africa. And that interpretation of the Act constitutes a structural discrimination against children based on their nationality, which can also be framed as ethnicity" (Professional 12, SAHRC).*

The misinterpretation of the Immigration Act (Republic of South Africa The Presidency, 2002) refers to the meaning attached to 'learning institutions'.[34] In particular, the term 'learning institutions' in the Immigration Act No. 13 of 2002 (Republic of South Africa The Presidency, 2002) has been clarified by the courts to not include schools. However, at the time this discussion was written up, I was unable to find published articles that have discussed the issue of what 'learning institutions' have been explained as. Only the Phakamisa judgment had this explanation (see Phakamisa Judgment, 2019). This further exacerbates the problem of policy and legislative ambiguities that exist in relation to equitable access to education for undocumented migrant children in South Africa. More so, with the uncertainty about what policies actually mean, it becomes difficult for parents of the undocumented migrant children to enforce their right to education. Such misinterpretations would mean that the rights of undocumented migrant children are not being upheld regardless of what is enshrined in the Constitution or supported by the courts. One of the Professionals from the SAHRC explained:

> *"And although we have an excellent constitution and a well-functioning constitutional democracy, including the independent courts and so on, one still finds, unfortunately, that the constitutional values and the human rights values in the Bill of Rights have not necessarily been upheld through to an extent that people are embracing those as they should" (Professional 3, SAHRC).*

As a result of the policy misinterpretations, it becomes difficult for the parents to, in any way, enforce their children's right to equitable access to education.

[34] See chapter 1, table 1.1.

"Because they say every child must go to school, isn't it? When we start going to those government schools, they don't take our kids, they start with papers, they don't have papers" (Parent 8).

Another angle which reveals policy gaps was through the lack of adequate resourcing of schools. Explaining this under-resourcing in relation to distribution, some professionals said:

"Unfortunately, they [undocumented migrant children] are not counted in the numbers" (Professional 11, The Project).

"From a provincial perspective, it's also a problem because funding is based on equitable share and for that, we use stats [statistics]. This information is used, and these people do not appear on the stats. So, province is basically not getting anything for any of these learners and yet need to provide and accommodate them. But because they are not officially here, there is no funding from treasury coming forward for these learners. That is just basically the day-to-day problems we experience. The Stats South Africa, they run a five-year census of all residents in the country. So usually what happens is that these people are not accounted for in the South African official statistics because there is a household survey that is conducted and because many people fear being deported or so of course, they basically don't present themselves to be counted. Which means that as Gauteng [for example], you get 10 Rand because we only know of so many people in your province, but actual fact is much more, and all these children need to be accommodated but it's not acknowledged and funded for in any way" (Professional 6, GDE).

It is worth noting that when searched for, it proved difficult to find published literature on the under-resourcing of schools due to policy gaps in relation to undocumented migrant children. What was found was an earlier report compiled by Section27 on how school funding is supposedly 'equitably' distributed at a provincial level.

> The equitable-share formula devised by National Treasury consists of six separate components, which aim to divide revenue among the provinces equitably. Education component (weighted: 48%), based equally on the size of the school-age population in each province, and the number of learners enrolled in public ordinary schools of enrolled learners in each province. However, while school enrolment numbers are updated each year, the age cohort of 5–17-year-olds has not been updated since the 2011 census and is therefore out of date. (McLaren, 2017, pp. 48–49)

This particular finding is important because the Department of Basic Education and provincial departments of education provide funding for public schools based on reported numbers of students in schools. However, this number is based on those who are 'correctly' (legally)

registered. It then means that should undocumented migrant children be enrolled at schools they will not be recognised in the resourcing of public schools. Under-resourcing schools is a major hinderance at the level of equity from the middle (Unterhalter, 2009). Providing limited resources to schools serves as an intentional action to ensure that undocumented migrant children cannot access education and exercise the freedom to achieve education. However, resources must be given to adequately support schools and all children who will be enrolled. Hence, equitable access to education calls, not only for policy revisions, but also the implementation and actions across South African society and the Department of Education to ensure that these children enjoy what they value, while they remain in South Africa (see Unterhalter, 2009).

5.1.5 The Covid-19 pandemic and its effects: A new and complicating factor

An additional complication that was found in this study was the Covid-19 pandemic and the effects it had on undocumented migrant children and their parents. It specifically affected the opportunity for equitable access to education for undocumented migrant children. Though the difficulties experienced during the outbreak of the virus were not peculiar to undocumented migrant children, the complexities surrounding their legal status in South Africa further compounded the issue. National lockdown restrictions during Covid-19 meant that participants had difficulty in getting/staying employed or being self-employed; difficulty in renewing their asylum permits (for those whose permits had expired just before the lockdown); and were unable to apply for public school placements due to an online application system implemented in the Gauteng Province.[35]

Beginning with the difficulty in remaining employed, all the participants revealed that the Covid-19 pandemic, which resulted in a nation-wide lockdown, had a negative impact on them. The undocumented migrant children noted that being employed was challenging for their parents. This meant that the children knew about the difficulty their parents faced in getting employed during the pandemic. One child reported:

> *"My mum doesn't have jobs because of the Corona but she used to go to work on Saturday" (Children, FGD 1, Session 1).*

[35] Although this online system was implemented before the pandemic, the national lockdown made it compulsory for all parents to apply for school placements for their children via the website.

Similarly, some of the parents who, before the pandemic, were self-employed expressed how the pandemic had had an impact on their businesses.

> *"This job for hair is not like before. You see, this illness [Covid-19] kill everything. Covid kill everything! Sometimes someone can need to make a weave, I make it, someone want to plait also, I make it. But now, is not like before, you don't make [money again]. Like early in the morning, I must come to the shop because customer is there, now is getting boring now. The problems they are mixed; you don't know if foreigners if what. You find that people they are suffering; you see suffering is not good. You see now it is not easy, we are in lockdown but the owner for the house says you must pay rent, where did you get money, another people, me I see people, the people is not mad, is a correct person, but sleeping behind ShopRite, sleeping in the morning, wake up, is not a mad person. I remember in lockdown, they would just come and lock our house, I've got the pictures, they lock us because we didn't pay; where are we going to get money for rent?" (Parent 3).*

For those who depended on getting 'piece jobs',[36] the pandemic meant they were often unemployed:

> *"Also, because I depend on business like going around, when they locked us up, it wasn't easy. It was very, very difficult because we needed food, shelter and all that and we couldn't get because as I said, I only depend on going through my small business in order to get money, but we are locked" (Parent 1).*

Thus, because of the restrictions enforced during the nation-wide lockdown in South Africa, the undocumented migrant parents experienced a loss of their source of livelihood. The undocumented migrant children who participated mentioned that their parents had lost their jobs because of 'Corona'. While the children seemed to have expressed this in simple terms, the parent participants provided detailed responses, including the fact that they were unable to get the kinds of jobs that they usually had available to them before the pandemic. These jobs were tagged 'pieces jobs' to express the temporality of the jobs (see section 5.1.1). This finding is confirmed by International Labour Organisation in that those who are undocumented find it difficult to get decent jobs as recognised by the (see report by Gordon, 2022). To restate the point, these informal jobs do not generally align with the expectations of the Decent Work Framework (International Labour Office [ILO], 2010) as drafted by the International Labour

[36] 'Piece jobs' refers to small temporary jobs that people do. For instance, the parents said that in a week they could be called to wash clothes or clean houses, or even to cook for various people in different places. This served as their source of income which was largely not a reliable income source.

Organisation (ILO).[37] Furthermore, Mukumbang et al. (2020) note that undocumented migrants were not considered for relief funds by the South African government during the lockdown restrictions. This meant that this group of vulnerable individuals not only struggled to make a living but received no without support from the government. The food relief program was also specifically only for South African citizens (Bornman & Oatway, 2020). This means that although South Africa is a member of the International Labour Organisation (ILO), there has been a significant failure to meet up with the expectations of the Organisation in terms of including migrants, in this case those who are undocumented, in Covid-19 relief programs. Human rights concerns are raised from this highlighted failure, and questions on the legal implications of South Africa's failure to meet up with ILO's expectations are also raised.

Beyond affected businesses and the difficulty in getting and staying employed, livelihoods were also affected. As a result, meeting their basic needs became a significant problem because the parent participants were unable to make ends meet.

> *"That time, things were so difficult, no work, we are not going to work. Like me I'm self-employed and if I can't go out, I can't eat, I can't help, I don't have money, where can I get money. That time things were very tough. I need to buy food, I need to buy electricity, the things as very rough" (Parent 8).*

Like the parents, professional participants also noted the difficulty in making ends meet, and an increased level of vulnerability for undocumented migrant children and their parents because of their inability to sustain themselves during the pandemic. Some of the professionals added:

> *"So, and especially with Covid, I think they've been particularly made vulnerable by the crisis. It's very difficult for them to even sustain their families. Also, I think, with the Covid crisis, really refugees and migrants are even less of a priority than they were before" (Professional 2, The Project).*

> *"Like now they are really struggling most of the people; I don't want to lie, because now they can't meet the ends, like they will be struggling to pay rent. So now, some of them are selling some of their property, some of their furniture, so that they can try to pay their rent which is not a good thing" (Professional 9, The Project).*

[37] South Africa has been a member of the ILO since May 26, 1994, before the Decent Work Framework was drafted (see https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11003:0::NO

This desperation reduces the chance for undocumented migrant children and their parents to exercise their agency in terms of equitable access to education. Though Unterhalter (2009) argues that:

> because of equity from above, children from the poorest households were not being denied access to education [in South Africa]. Their value was enhanced because of the legislation on fair admission and progression (equity from above) and the opportunities for critique and discussion (equity from below) …these intersecting forms of equity contributed to expanding the capability space allowing for combinations of valuable objectives by diverse actors. (p. 422)

I argue that life for undocumented migrants is difficult partly because of policies (including politics) which serve to exclude non-nationals. As a result of this difficulty in sustaining livelihoods, the undocumented migrant children in my study are unable to exercise their agency to the fullest. In addition, as mentioned, policies that excluded undocumented migrants from receiving relief funds during the lockdown restrictions serve to prevent this group of individuals from achieving various functionings, including being sheltered, healthy, and educated. Thus, when equity forms (as expressed in my conceptual framework) intersect, the freedom for these children to be educated becomes limited.

Another problem exacerbated by the pandemic was the difficultly to renew permits, even after the lockdown restrictions were reduced.

> *"Home Affairs is closed these days; you must wait for the Home Affairs to open if your asylum or papers expired before February 2021. If it expired from February 2021, you must do it online" (Parent 7).*

The inability of the parents to sort out their documentation meant that their children were also without documentation.

> *"Because of lockdowns, my asylum is now not okay, and then I can't get an unbridged for him. Because my asylum is not okay now" (Parent 7).*

This inability of participants to renew their documentation meant a lack of any form of identification[38] for their children during and after the hard lockdown restrictions in South Africa. Masuku (2020) reported that even before the lockdown, the Department of Home Affairs had struggled to process applications for asylum seeker permits. Recently, Phiri (2022)

[38] The parents noted that for those of them who gave birth to babies during and after the lockdown, because they were undocumented, they were unable to access even the unabridged birth certificate for their new-born babies.

indicated that Covid-19 aggravated the struggle for documentation of undocumented migrant children in South Africa. Consequently, although undocumented migrant children were already experiencing problems with documentation, registration of births, and even accessing unabridged birth certificates (see Sibanda, 2021), the pandemic further affected them. Thus, their capability (freedom to do what they value and the opportunity to access education) was further hindered by inequities within the system in South Africa.

The pandemic also necessitated the need for an online system for school placements.[39] However, in 2021, when this data was collected, the online system set up by the GDE was reported by the participants to not have an option for those without paper documentation, or an ID number to apply online.

> *"The new system of online makes everything worse; before it was even okay because we can go with this paper, A4, they make a copy remains there, but now when we have to go online to apply, you put this number with letters inside [the one given at] Braamfontein, Johannesburg. The number is not going through because the system does not recognise, they want ID, it rejects them. So, even if you have this temporary paper that they give at Home Affairs, it's rejected; the system does not allow. Now it's not no more like that, the principal, or teachers or whoever will say no, don't go to school, it is now the system now automatic it will say no, you're not allowed. But then before this system of online came, they were going to school, they were going to school. And it was just like, you don't have paper, please. I will make sure that I arrange, I'll make sure that I do one, two, three, in the meantime do this" (Professional 7, The Project).*

> *"Because I had tried to apply on the internet, the GDE admissions, it has admissions but there was a place where you had to get the identity number of the child and because the child doesn't have a birth certificate or identity or anything, the process doesn't go through" (Parent 6).*

When I asked Parent 6 if she had tried to do a walk-in at any designated GDE Offices or pop-up sites, she responded:

> *"I did, they said I must do it online of which I think I did and maybe there was that part I had to fill the identification document but then with this paper, there is no identity document [number] here, there is no ID number in any of these" (Parent 6).*

[39] The GDE online admissions application system had already been in use before Covid-19. However, parents who were unable to 'use' the system could physically go from school to school to seek assistance about placements for their children. When national lockdown restrictions set in, school placements were forced to be fully online with few walk-in centres. (Researcher Field notes, 2021).

This problem further exacerbated the chance for undocumented migrant children to access education, specifically in the Gauteng Province. I state that the online admission application system served to prevent undocumented migrant children from accessing education in an equitable way. From here, notions of whether education is considered a basic capability for *all* in the South African context are raised. When parents of undocumented migrant children are unable to apply for their children to be enrolled in schools because of a minor issue, then education cannot be entirely explained as a basic capability.[40] I state this because for education to be considered as a basic capability, it must be equitably accessible to everyone regardless of their legal status. Sen argues that "the notion of the equality of basic capabilities is a very general one, but any application of it must be rather culture-dependent, especially in the weighting of different capabilities" (1979, p. 219). What this means is that contextualised solutions must be considered to ensure the achievement of basic capabilities. For instance, ensuring access to education must be considered with an understanding of the South African context in relation to the view on migration and the legal status of undocumented migrant children. So, policies, resourcing of schools, and negotiations with undocumented migrant children must be deliberately tailored toward protecting the educational right of these children. Like equity (as discussed in chapter 4), contextualised or culturally dependent solutions should not be exclusive. However, through the use of an exclusionary online system, alongside other identified problems, the contextualised understanding of the value of education in South Africa is dependent on whether one belongs. As a national, the value of education is viewed as a basic capability and right; however, for undocumented migrants, are denied this capability.

In all, the online system was specifically noted by the parent and professional participants to serve as a form of 'gatekeeping' for undocumented migrant children to equitably access education. There was no provision for asylum permit holders to punch in their permit numbers.[41] However, one of the professionals interviewed noted that those who were unable to complete the process online were allowed to visit GDE District Officers in designated areas to manually apply for schools. The problem with this was the fear of being arrested or reported to the DHA or South African Police for being undocumented. Being afraid of what would happen thus served as a barrier for the parents of undocumented migrant children to exercise their agency and so, ensure that their children could be enrolled at public schools.

[40] Basic capabilities refer to "a person being able to do certain basic things" (Sen, 1979, p. 218).
[41] In October 2021, after I interviewed parent and professional participants, I decided to visit the webpage for the school placement, and I also found that I indeed required a South African ID number to continue with the application process.

In conclusion, this chapter has focused on the problems the impact of migration to South Africa has on the undocumented migrant children's equitable access to education. This was based on the second specific objective of this study. From the findings, it was revealed that the impact of migration has been largely difficult for undocumented migrant children and their parents. These difficulties include the lack of documentation; discrimination and xenophobia; the lack of basic services; policy gaps; and Covid-19 and its effects. I have shown that the problems faced by undocumented migrant children extend to, and often begin with their parents and their difficulties. I also argue that these identified problems serve as major hindrances for undocumented migrant children to freely participate in what they value namely access to education. These difficulties show that to ensure equitable access to education in context, there must be an interrogation of the specific structural limitations which would shape the nature of strategies suggested to tackle the problems. Consequently, there is a need to consider strategies that are relevant to address the problems from different levels of society. The next chapter focuses on possible strategies for addressing the problems this chapter has highlighted.

CHAPTER SIX: STRATEGIES TO ENSURE EQUITABLE ACCESS TO EDUCATION FOR UNDOCUMENTED MIGRANT CHILDREN IN SOUTH AFRICA: FINDINGS, ANALYSIS, AND DISCUSSION

Chapter five presented the findings, analysis, and discussion of the second objective of the current study, which focused on the impact of migration on the undocumented migrant children's equitable access to education. The impact signals the need for strategies to tackle the difficulties raised. Chapter six focuses on the third objective of this study, which is to develop strategies that can tackle the problems of migration on the undocumented migrant children's equitable access to education in South Africa. The purpose of this chapter is to provide further evidence to support the need for an integrated approach (in thinking and doing) to ensure equitable access to education. I will present the findings, analysis, interpretation, and discussions based on the data collected and analysed in relation to the stated objective. This chapter begins with an introduction, then findings are presented along the major themes that were identified. Under each major theme discussed, I will include the interpretation and discussion of the findings in relation to extant literature, as well as the conceptual framework used for this study. The chapter ends with a conclusion which includes the key points raised in relation to the third objective of the study.

The argument I will develop through my findings is that the strategies identified require an integrated effort from government, society, and from individuals to ensure the equitable access to education for undocumented migrant children in South Africa. This integrated, conceptual approach is necessary considering the complexity of the problems undocumented migrant children experience. The approach is also important because the conceptual framework is designed to account for the different societal dimensions that highlight these complex problems faced by the identified group of children. In this context, equity is clearly argued to be a combination of efforts and doings from different levels in society to ensure that basic human rights are upheld. Equitable access to education is not isolatable and requires this combined conceptually complex approach to equity as its relates to the undocumented migrant child's access to the education. I include table 6.1 which highlights the summary of the main findings for the stated objective.

Table 6.1: Summary of the findings under objective three	
Theme 1: Government-level strategies	
Sub-theme 1: Documentation of undocumented migrant children	Undocumented migrant children need to be issued birth certificates.
Sub-theme 2: Revising of existing policies related to education and immigration	Existing policies about education and immigration need to be revised. Also, recent court judgments that relate to access to education must be implemented in all schools.
Sub-theme 3: Training of stakeholders	Stakeholders need to be trained to ensure proper implementation, monitoring, and evaluation of existing policies and recent court judgments on equitable access to education for undocumented migrant children.
Theme 2: Community-level strategies	
Sub-theme 1: Engaging with the community	Communities need to be engaged with to ensure that problems are recognised.
Sub-theme 2: Assistance from non-government organisations (NGOs)	Parents and professionals recommend continued support from NGOs, and the establishment of more NGOs to support undocumented migrant children through bridging educational gaps for the children.
Theme 3: Individual-level strategies	
Sub-theme 1: Individually promoting social cohesion	Undocumented migrant children and their parents are encouraged to promote social cohesion by being mindful of others (non-migrants).
Sub-theme 2: Seeking documentation	Parents of undocumented migrant children need to do their best to acquire documentation for their children.
Theme 4: Combined and planned approach (An integrated approach)	
There must be a combined and planned approach to tackling the problems experienced by undocumented migrated children and their parents regarding the children's equitable access to education. The professionals recommend that all levels of society need to work together, in an organised way, to achieve access to education for the identified group of children.	

6.1 Strategies for ensuring undocumented migrant children's access education in an equitable way

To reiterate, the third objective for this study focused on developing strategies that can be used to address the problems experienced by undocumented migrant children's equitable access to education in South Africa.

Data from individual interviews and the Focus Group Discussions (FGDs) revealed that there is a need to consider strategies that are contextualised to achieve equitable access to education for undocumented migrant children in South Africa. In my analysis, the following major strategies were identified:

a) Government-level strategies
b) Community-level strategies
c) Individual-level strategies
d) A combined and planned approach (An integrated approach)

These level-based strategies relate to earlier publications by the Organisation for Economic Co-operation and Development (OECD) (2012); the United Nations Educational, Scientific and Cultural Organisation (UNESCO) on a 2014-2021 education strategy (see United Nations Educational Scientific and Cultural Organisation, 2014); as well as the United Nations Children's Fund (see Dooley, 2017). More importantly, the level-based strategies clearly align with the study's conceptual framework. For instance, government-level strategies relate to equity from the top and the extent of 'freedom' granted to undocumented migrant children in terms of accessing education. Their freedom is dependent on what equity is determined to be through government policies. On the other hand, individual-level strategies epitomise equity from below and agency. This level of strategy is illustrative of what undocumented migrant children can do on their own (considering their personal circumstances) to get equitable access to education. However, as is discussed in detail in this chapter, what remains significant is the need to establish a combined approach which allows for the various levels of society to work together to ensure access to education for undocumented migrant children. Moreover, this combined approach would highlight the role of agency in implementing equitable access to education for undocumented migrant children in South Africa. In what follows, I present the findings and include an interpretation and discussion of these four strategies, as identified in the current study.

6.1.1 Government-level strategies

Government-level strategies are one of the key strategies identified by my study participants. These strategies refer to interventions that can be made by the South African government or through a 'top-down' approach as per Unterhalter. Government-level strategy include both policy and political interventions that can ensure that the capability of undocumented migrant children to be educated is not constrained by policy-level problems. The study's participants revealed that there are specific steps that the South African government could take to ensure that undocumented migrant children are able to access education in an equitable way. These strategies are three and include:

- The documentation of undocumented migrant children
- The revising of existing policies related to education and immigration
- The training of stakeholders.

Documentation for undocumented migrant children

One of the major steps the government could take is giving documents, specifically birth certificates, to the undocumented migrant children, especially those who were born in the country. My assumption is that children born outside South Africa already have birth certificates with identification numbers or even registration numbers. What this means is that their births have been appropriately registered. This theme was mostly identified from interviews with the parents of undocumented migrant children and professional participants. Most parents believed that their children need to be issued documentation (birth certificates) because it serves as the first step in ensuring these children can meet the requirements for school enrolment.[42] Similarly, the professionals indicated that being *properly* registered at birth provides the opportunity for undocumented migrant children to equitably access education, and reduces the risk of these children becoming stateless, and more vulnerable. Below, I discuss why participants believed that children need to be provided with necessary documentation.

The parent participants suggested that their undocumented migrant children, especially those who were born in South Africa be provided with birth certificates.

"Maybe if they don't have birth certificate, then they could give us" (Parent 5).

[42] When this chapter was written up in 2022, the South African Department of Basic Education clearly indicated birth certificates (with identification numbers) as part of the required documents for applying to public schools. See https://www.education.gov.za/Informationfor/ParentsandGuardians/SchoolAdmissions.aspx

"If the child is born here, I think they can help. If the child is born here in South Africa, I think they can help the children because they are born in South Africa, yeah, so then they can assist. I think they must help the children with the papers" (Parent 7).

"But I think the government is the one who should think of a way to help these children, do you understand, these foreigner children born here in getting them papers [birth certificates]. I think that it is just fine, I don't know how or when… whatever… but just to find us a way to get the kids documents" (Parent 1).

Significantly, some of the parent participants revealed that most of the children who were born in South Africa had never been to their supposed home countries. This was another reason why the parents suggested the need for their undocumented migrant children to be issued birth certificates. One of the parents said:

"Most of these kids that we are talking about, and most of there were born in here. They are basically born in here, they are just [from another African country] because I'm [also from the same African country] and most of them have never been to [this African country], they are born, they are still staying here and practically this is the only home they know. So, I don't know how it can be done but just being considered because it has been their home since birth" (Parent 6).

From this, notions of identity and the significance of documentation are closely related to where one belongs and who one truly is. Identity is forged based on one's origins, including country of birth, nationality, and for the undocumented migrant children, where they know home to be. For the children in this study, their lack of documentation, especially not being properly registered at birth, raises questions of where they really belong. Knowing that they have not experienced another home, apart from South Africa, also means it becomes difficult for undocumented migrant children to understand whether they truly belong in South African society, or if they will ever have the opportunity to go back to what their parents call 'home'. Issuing identification documents for these children will give them some sense of belonging in South Africa and ensure that they can be enrolled in school. Doing so also provides platforms for these undocumented migrant children to begin to exercise their agency.

Similarly, professionals pointed out this same strategy, as identified by parents, suggesting a need for South Africa to provide documents to undocumented migrant children. Providing documents was expressed in terms of issuing birth certificates because, for the professionals,

this document is significant for ensuring that undocumented migrant children can equitably access education in South Africa. It was argued that:

> *"They [the South African government] could do that [document the children] because they were born here, if they could help those children who were born here in South Africa… they allow them to go to school and they must just give them the document. It's just a document so that the child can go to school, it's not like they have got something to lose from that, they have nothing to lose, just a documentation so that the children can go to school" (Professional 10, The Project).*

> *"Process their identification documents and give them access to education; Home Affairs can take that matter as a priority" (Professional 11, The Project).*

Birth certificates are thus a major and basic form of documentation that children must receive because being undocumented creates depravation and hardship prevents the children from being able to participate in activities that they value (see Gerber et al., 2011; Reed-Sandoval, 2020).

In all, parents and professional participants suggested that, to tackle the problem of the lack of documentation, which serves as an overarching problem, the South African government, through the Department of Home Affairs (DHA) should give legal documentation to the undocumented migrant children. To be clear, this legal documentation refers to issuing birth certificates to allow the children's births to be properly registered and for them to be assigned a national identification or registration number. The importance of birth registration has been found by studies and reports conducted in, and outside South Africa (see for example, Bhatia et al., 2017; Todres, 2003; United Nations Human Rights Office of the High Commissioner [OHCHR], n.d.). For instance, in a study by Gerber et al. (2011) in Australia, it was shown that having a birth certificate is proof that the right to birth registration has been upheld because the certificate serves as the essential evidence of birth registration. Gerber and colleagues (2011) also pointed out that a birth certificate, as essential evidence, is a key determining factor for access to other rights, including education. In the South African context, Hlatshwayo and Vally (2014) clearly show that the lack of birth certificates for migrant children served as an impediment for them in accessing education. By implication, there is a need for the South African government to carefully reconsider issuing birth certificates to children born in the

country by undocumented migrants because without this certificate a child cannot access education easily.

Supporting this, both parents and professionals reported that the government also needs to consider documentation of the undocumented migrant children to allow them the real opportunity to access schools. As described in chapter 5, this opportunity is representative of platforms for undocumented migrant children to have the choice to attend schools. Some of the parents and professional participants said:

> *"Yeah, the government must help, must fix that situation, must help that story because, must help that problem. It is not a story but it's a problem, it must end. Because many people, many kids that stay at home don't have the paper" (Parent 3).*

> *"What we have to do for our kids to go to school, those kids must have enough proper documents. Not only a child is using a baby clinic card, what is a baby clinic card? When she reached 12 years, she'll stop using that baby clinic card" (Parent 8).*

> *"I also know that [schooling] qualification is given against some form of identity. So, I would suggest that you would need Home Affairs to come up with a system to support [these] children" (Professional 6, GDE).*

The significance of the real opportunity to get educated is thus highlighted. This real opportunity to access education, in an equitable way, supports the study's conceptual framework where the ability of undocumented migrant children to be educated is either limited, or increased, based on policies or government interventions. In this case, the opportunity needs to be created through policies which are reasonable and provide platforms for the fulfilment of the right to education (see Unterhalter, 2009). Additionally, providing the real opportunity for undocumented migrant children to get educated allows these children to achieve their functioning of being able to attend school (Robeyns, 2017; Sen, 1999). Suffice to say, the undocumented migrant children's freedom to achieve that which is valued (education and attending school) is significantly reliant on this strategy of providing the essential legal evidence of who these children are. Opportunities must be created for undocumented migrant children to become documented. For the undocumented migrant children who already have birth certificates from their home countries, but are without permits, the Phakamisa Judgment must be implemented.

Revising policies and revisiting admission requirements for public schools

Participants recommended various adjustments in relation to revising education policies to ensure that undocumented migrant children access education in an equitable way. These different suggestions include ensuring policy and practice alignment and updating the requirements for admissions into public schools.

First, the need to consider policy gaps and align policy and law in relation to education was expressed. This need was clearly indicated by the professionals who participated in the study. In their explanation, they described how policies and laws about the education of undocumented migrant children can be implemented. Some professionals stated:

> *"I think there are good laws in South Africa because if you read the law, then, you know, anyone, as we said should be allowed in school. But I think what should be done is that those laws should be applied and applied by all" (Professional 2, The Project).*

> *"So, maybe we should do more as a Department [of Education] to remind them [the GDE and DHA] that this has been agreed" (Professional 1, GDE).* [43]

This is important for equitable access to education because informing provincial departments of education about revised policies or laws will require public schools in different provinces to remain informed about what can improve the opportunity of undocumented migrant children in accessing education. Concerning revising existing legislations and policies on education and immigration, the findings have revealed the need to consider how current policies on education and immigration can be aligned to practice. Here, participants noted the need for policies that are already existing, and are in the best interest of the child, to be applied in real terms. This means that, for instance, since the Phakamisa Judgment in 2019, there must be wider implementation of the revised decision to enrol undocumented migrant children. The major decision of the Court's judgment in the Phakamisa case was that schools must enrol all children, regardless of their legal status. This means that although there are undocumented migrant children without birth certificates, and other school admission policy required documents, they must be allowed to register at public schools.

[43] Here, what has been 'agreed' refers to the Phakamisa Judgment which ruled that all children (regardless of their immigration status in the country) be allowed to enrol in schools.

"And it also then ordered that schools should accept alternative proof of identity, both by nationals, as well as illegal immigrants, for example, you know, in the form of an affidavit and so on, and that schools may not exclude migrant learners on the basis of the immigration status" (Professional 3, SAHRC).

It is necessary to consider the specific ways the Judgment can be enforced through practical means. For instance, as indicated by the professional from the SAHRC, alternative means of identification can be requested such as clinic cards. Also, enforcing the Phakamisa Judgment can begin by widely disseminating clear details about what needs to be done by schools and provincial education departments in relation to enrolments and undocumented children. Monitoring the implementation of the Judgment is also important; I discuss this strategy in the paragraphs that follow. Such specific ways of enforcing or implementing this Judgment supports working out solutions to cater for the specific circumstances of undocumented migrant children in South Africa (see chapter 5); this is equity in education. There is thus an urgent need for developing practical means of tackling initial access to education for undocumented migrant children in South Africa.

To begin, a professional from the SAHRC explained the need for an alignment of policy and practice as it relates to equitable access to education for undocumented migrant children through understanding policy stipulations. He used an example of what the Immigration Act (Republic of South Africa The Presidency, 2002) states and what has been argued in court, and the need for a deliberate understanding of the presiding judgments on these laws. Below, professional 3 provides a detailed description of how a new interpretation of the Immigration Act was given:

"Section 39(2) of the Constitution, …very specifically it says, when interpretating any legislations, or when developing the common law or customary law, every court tribunal must promote the spirit of the court and objects of the Bill of Rights. So, what [has been] argued is that properly integrated, the Immigration Act does not refer to schools and learners.[44] So, yes, it has not been amended because the court put a specific interpretation on the relevant sections,

[44] Part of the Phakamisa Judgment was the agreement that the term 'learning institution' should be interpreted to refer only to adults attending 'learning institutions' to obtain something over and above 'basic education' and are thereby trained or instructed in furtherance of their pursuits. (*Phakamisa Judgment*, 2019, p. 38)

that is Section 39(1) and 42.[45] *It might be that that maybe created the confusion includes about the fact that learning institutions is still included there but basically, we say that learning institutions referred in there does not include schools, and the court accepted that interpretation, in lieu of the constitutional obligation as to how courts should interpret legislation in terms of sections 39 and 42. What was unconstitutional was clauses 15 and 21 of the Admission Policy at the time. As I mentioned, clause 15 referred to nationals and required a birth certificate either immediately or within three months to be presented, otherwise the learner is excluded from enrolment and which the court described as a severe limitation and couldn't be said by any form of justification. But the Immigration Act was not amended." (Professional 3, SAHRC).*

An important point that was mentioned by this professional from the SAHRC is the reason why the Immigration Act has not been amended. He said:

It [the Immigration Act] was just interpreted in a way that is constitutional because there is that obligation but before court declares an act of parliament unconstitutional, it first needs to see if there isn't an interpretation that can be put on the relevant provisions that is within it, the constitutional interpretation. That is why the court said that these learning institutions that said one of these two sections is not referring to schools, is not referring to in the school" (Professional 3, SAHRC).

While I acknowledge the explanation provided, I believe that the failure to amend the Act continues to create confusion on what exactly 'learning institutions' entail. I state this because, as previously mentioned in chapter 5, section 5.1.4, when this chapter was written in 2022, I was unable to find published literature, besides the Judgment, that explains this peculiar interpretation. Such confusion serves as a way the functioning (being able to attend school) and capability (the freedom to achieve this functioning) of the undocumented migrant children in South Africa is constrained.

[45] Section 39 of the Immigration Act No. 13 of 2002 states that: (1) No learning institution shall knowingly provide training or instruction to- *(a)* an *illegal* foreigner; *(b)* a foreigner whose *status* does not authorise him or her to receive such training or instruction by such person; or *(e)* a foreigner on terms or conditions or in a capacity different from those contemplated in such foreigner's *status.* (p. 62). Section 42 of the same Act states that: (1) Subject to this *Act,* and save for necessary humanitarian assistance, no person shall aid, abet, enable or in any manner help – (a) an *illegal foreigner*; or (b) a foreigner in respect of any matter, conduct or transaction which violates such foreigner's *status.* when applicable, including but not limited to- (i) providing instruction or training to him or her or allowing him or her to receive instruction or training.

When I further asked whether any circulars or information sheets about the judgment of the Court on the agreed explanation of the Immigration Act were distributed to the various provincial Departments of Education, the participant revealed the following:

> *"…basically, Education issued a circular, I'm not so sure if DHA actually issued a circular. And there was a point when specifically, the DHA immigration officials caused some troubles at these schools you know [after the judgment]; they then actually pitched up there and caused problems for these undocumented learners. There was one case where the principal sent out a letter to all parents to say unless you have your proper documentation by Monday, those learners will be taken to the police station, I think it was in Gauteng [Province]. So, we got information of that incident and then we very strongly intervened and got a grip of the situation but yeah, you know that kind of a thing. So, definitely we should check if there is a circular following Phakamisa to all the officials to inform them of the judgment and the implications there are" (Professional 3, SAHRC).*

The need for monitoring and evaluation of the expectations indicated in the judgment is highlighted. It is clear that there is an urgent need for the education laws and policies that are in place for undocumented migrant children in South Africa to be aligned across schools. This is important because to ensure equitable access to education for undocumented migrant children the role of policy and so, an understanding of equity from the top, has significant impact on other levels of society. Policy can constrain or allow undocumented migrant children's access to education (see Unterhalter, 2009). Monitoring and evaluation of the implementation of the Phakamisa Judgment is important because if it is not implemented, it will result in no one knowing that undocumented migrant children are legally allowed to access education, regardless of their legal status.

Although notions about policy and practice alignment have been identified as a 'top-down approach', considering South Africa's nationalist perspective view on migration, as described in chapter 1, section 1.3, it might prove difficult to make changes or revise existing policies. A study by Jalušič and Bajt (2022) noted that nationalism and so, the exclusion of non-nationals, constrains the opportunity for policies to be inclusive and provide platforms for 'others' in specific environments. This top-down approach therefore is not sufficient to ensure equitable access to education for undocumented migrant children in South Africa. I state this because a nationalist perspective on migration, as well as access to basic rights and services, does not promote equity. So, policies drafted through nationalist views would only seek to provide

opportunities that cater for the needs of 'their own people' rather than for all who reside in the nation. By implication, and drawing from the study's conceptual framework, policies serve as the limiting extent of one's freedom in any given society. However, consideration of equity from the middle and recognition of the personal circumstances and agency of undocumented migrant children remains important aspects of implementing equitable access to education beyond existing policies. Unterhalter (2009) argues that,

> equity from above without a specification of the nature and indeed the limits on resources and capabilities associated with equity in the middle, and the tolerance and respect and fairness associated with equity from below, is likely to become hollow rhetoric. Equity from the middle, without the connection to reasoned legal frameworks associated with equity from above and participation, dialogue and critique associated with equity from below is likely to become a sterile managerialism. (pp. 421- 422)

So, there is a need for an integrated approach through which equity across different levels, alongside consideration of structural limitations, are interrogated to ensure equitable access to education. Such an approach (both in thinking and practically) would highlight the functionings (in this case, being able to attend school) as well as the capability (freedom to attend school) of undocumented migrant children. It would also highlight the specific things that need to be done to expand their capability.

A second important finding under the policy gaps is the need for the Admission Policy for Ordinary Public Schools (1998) requirements for school enrolment to be in alignment with the Phakamisa Judgment which was given in 2019 and a circular was published by the Department of Basic Education in 2020 (see Department of Basic Education, 2020). Notably, when the interviews for this study were held in 2021, parents and professionals still indicated a need for the amendment of the Admission Policy for Ordinary Public Schools (1998).

For the parents, this amendment was expressed in straight-forward terms: "Let them just be allowed to go to school!"

> *"As long as the kids are born here, and even if they're not born here but when their parents are here, if they don't have like a birth certificate or what, let the kids go to school" (Parent 9).*

> *"Yeah, our kids attend to go to government, if they don't have the papers is no problem and continue" (Parent 3).*

For the professionals, the need for an amendment was explained in ways which highlight the importance of access to education, both as a right and as a capability valued by undocumented migrant children:

> *"Every child has the right to basic education, allow the kids to get educated, even if they have documents or not. I don't even see how those documents affect them. It doesn't affect the mental thinking, it's just a formality! And people tend to say the formality and base it on a person, [for instance] because she doesn't have her documents, that a child is probably stupid. No! The child is in school to learn, let her do what she has to do learn" (Professional 4, The Project).*

> *"Yes, that is what I really want the government to do, they must just accept any child using whatever she [or he] is having from their own country" (Professional 9, The Project).*

Concerning policy and practice, participants mentioned the need to align already existing policies on education and immigration with recent judgments that directly affect the initial access to education for undocumented migrant children in South Africa. The focus was on the Admissions Policy for Ordinary Public Schools (1998) to be reconsidered alongside the Phakamisa Judgment (2019). It was revealed that there needs to be an amendment to the Admissions Policy for Ordinary Public Schools (1998) because, although the Judgment had been circulated, there were still cases of undocumented migrant children being turned away from public schools because of the lack of documentation (see Broughton, 2020; Washinyira, 2020). In 2021, on 10th February, the Minister of Basic Education called for comments on an amended Admission Policy (see Call for Comments on the Admission Policy for Ordinary Public Schools, 2021). Section 9 of this document states:

> The admission policy of an ordinary public school and the administration of admissions by a provincial education department *must not unfairly discriminate* in any way against an applicant for admission including but not limited to race, gender, sex, marital status, ethnicity or social origin, colour, sexual orientation, age, disability, HIV status, religion, conscience, belief, culture, language, birth, *immigration status or nationality* or any other arbitrary ground. (Call for Comments on the Admission Policy for Ordinary Public Schools, 2021, p. 6, emphasis added)

In addition, Sections 23 and 24 of the same policy states:

> The right to education extends to everyone within the boundaries of South Africa, the *nationality and immigration status is immaterial*. All schools are advised to admit learners and serve their education requirements irrespective of whether the learner or parent of a learner does not produce documents listed in paragraphs 15, 17 to 20 of this policy.

> The Head of Department *must hold the parents of undocumented learners accountable* for *acquiring birth certificates for their children*. The Head of Department may help parents of undocumented learners which includes *liaising with the nearest office of the Department of Home Affairs* to ensure undocumented learners admitted in schools are documented while the learners receive education. (Call for Comments on the Admission Policy for Ordinary Public Schools, 2021, p. 12)

Amidst responses to the amended policy, Equal Education Law Centre (EELC) – an organisation that seeks to ensure access to education for all groups of children in South Africa – and Equal Education (EE) (an NGO focused on ensuring education for all children) jointly noted the lack of clarity of this revised policy, stating that:

> …the policy makes numerous references throughout that where certain documents are unavailable or where certain information cannot be verified, that referrals to the DHA or even the Department of Justice and Correctional Services (DJCS) must be made. No clear reasoning is offered as to why these referrals are being made. (Equal Education Law Centre & Equal Education, 2021, p. 6)

The EELC and EE also stated the following implications of the amended policy:

> First, on the whole, it is *inappropriate* to use the Amended Policy to regulate learners' obtaining documentation. Second, given the complex causes for lacking documentation (which, with respect, it is evident that the DBE does not understand) referrals to DHA and DJCS are pointless and may only *lead to undue prejudice and the discrimination of learners.* Any other pressure which is placed on learners, parents, and caregivers to obtain documentation under these circumstances (such as inserting clauses which state that it is the parents' obligation to obtain documentation for the learner) also acts as a deterrent to access to education. Third, many of the clauses demanding referral to DHA or other institutions plainly constitutes discrimination on the basis of nationality. Fourth, it appears that many of the clauses violate international law in that information, which is gathered for other purposes, is then used for immigration control. In summary, many of the clauses require clarity to the effect that no undocumented learner can be turned away. Further, *all clauses requiring referral for the purposes of obtaining documentation must be deleted*. (Equal Education Law Centre & Equal Education, 2021, pp. 6-7, emphasis added)

The proposed amended Admissions Policy sets a limitation on the extent to which undocumented migrant children can enjoy the freedom to equitably access education. While

some aspects of the amended policy might be positive, negative implications (as have been identified in the quotation above) arise from it. The meaning of equity as the opportunity to thrive, and fairness (as described in chapter 5) thus become questionable through given laws and rules. One of the implications is the complexity of the issue of documentation and referrals to the DHA that the Department of Basic Education fails to understand. This issue has been partly indicated in chapter 5, section 5.1.1, where undocumented migrant parents live in fear of being arrested by the police while trying to renew asylum permits for themselves. Also, as found in chapter 5, section 5.1.1, the documentation of migrant children depends largely on the legal status of their own parents or mothers. This means that it is seemingly impossible for undocumented migrant parents to 'sort out' their children's documentation. This complexity highlights the structural (both vertical and horizontal) limitations that exist in the South African context. The capability approach allows us to interrogate with such limitations, and the idea of how we can ensure justice, in the given context, can be realised (see chapter 2, section 2.2.5).

Furthermore, the call for comments on the amended policy came after the Phakamisa Judgment was given. This suggests that although there has been some revision to the existing Admission Policy (Admission Policy for Ordinary Public Schools, 1998), there remains a dire need for implementation and evaluation of the policy. Similarly, a joint submission by Section27, Lawyers for Human Rights, Equal Education Law Centre, Centre for Child Law, Legal Resources Centre, and Children's Institute to the *'United Nations Committee on Economic, Social and Cultural Rights on the occasion of the review of the Information received from South Africa on follow-up to the concluding observations on its initial report, 14 May 2021'* clearly argued that despite the Phakamisa ruling being significant, its implementation has been inadequate. Monitoring and evaluation remain important aspects for ensuring revised policies, and recent rulings are implemented (Centre for Child Law et al., 2021). This monitoring and evaluation will serve as ways to address structural limitations that abound across various levels of society.

A third finding under the need for policy and law to align in ensuring undocumented migrant children are able to access school relates to the online GDE Admission website (see www.gdeadmissions.gov.za). This website is the GDE's designated virtual space for all parents in the Gauteng Province to apply for schools, on behalf of their children. Some parents and professionals reported that there is a need for the online system to be inclusive, to match the Phakamisa Judgment. As stated earlier, although the Judgment was made in 2019, when the

data was collected, participants still noted the failure of the GDE to fully implement the rulings. Here, some of the participants suggested that:

> *"What I can just say is if they can create a space where we can put our asylum number, the permit number so if we can put the permit number there online, it'll be good news" (Parent 10).*

> *"The system… you know, the [online GDE] system is like a computer, you programme it, you tell the computer what to do, yeah. There is a way, always a way. They can allow them to be able to put in the system this barcode of Home Affairs, so that it would be able to read the barcode. When we scan it, it would show the details of the child from the Home Affairs. Remember every paper, there is a barcode there that you scan, and that will take you into the system. If that it is included in their system programming, it won't have a problem of seeing that this paper is genuine from Home Affairs. I think that is what is lacking" (Professional 7, The Project).*

This strategy of creating an inclusive online GDE school placement system was highlighted because technological advancement is not a good reason to exclude undocumented migrant children from applying to public schools in the Gauteng province of South Africa. Participants thus suggested that the online system must have an option to proceed with school placement applications without requiring ID Numbers or permit control numbers. When this chapter was written up in 2022, the Gauteng Province's website still required documentation (birth certificates with identification numbers) for application to schools, without any mention of what undocumented children should do.[46] Thus the question remains, how undocumented migrant parents can access the online system in an equitable way when the system does not accommodate them.

One of the professionals revealed that there was the possibility of communicating with District Officers from the GDE to help create unique numbers for children who could not provide identification numbers to apply for schools using the online system. These unique numbers will serve as temporary registration numbers that can be used on the online system to apply for school placements. The professional said:

> *"It's those that have to go into the district office; every district office has got an admissions office where they'll create a unique number for that particular child, so that the child applies [online]. They can go, in fact they help you, they use it to help you apply and then you leave with your username and password so you can access the system as and when, and your cell phone number*

[46] On Friday 30 September 2022, I found the information on the website: https://www.gauteng.gov.za/Services/GetServices?serviceId=CPM-001592

if there is an offer, you will get a message that there is an offer in this school and all this" (Professional 1, GDE).

Considering the South African context and problems undocumented migrant children and their parents face (see chapter 5), it might be difficult for parents without documentation to 'appear' at GDE district offices. However, if this could work, it would be a step in the right direction to expanding the extent of freedom for undocumented migrant children to achieve their functioning of being able to attend school.

Training and workshops

Another way suggested to enhance equitable access to education for undocumented migrant children in South Africa was the training of stakeholders.[47] This was considered important because to implement an existing and amended policy on education and migration at the school level, those who deal directly with undocumented migrant children must know about the policies. They must also know, in exact terms, what is expected of them, especially for accountability, monitoring, and evaluating of the requirements of these policies. Some of the professionals said:

"So, maybe we should do more as a Department [of Education] to remind them that this has been agreed and the GDE as well as Home Affairs" (Professional 1, GDE).

"But I think what should be done is that those laws should be applied and applied by all, so I think there's a huge need for capacity building within you know, the schools, so like the heads of the schools and people who are in charge of registrations, etc. And also, teachers. So definitely a need for trainings you know, on the rights of migrant children, refugee children" (Professional 2, The Project).

The need for capacity building both inside and outside of schools has been highlighted. This capacity building mentioned is concerned with being trained on the rights of children, regardless of their legal status, and on new stipulations as it relates to education and migration. Capacity building also relates to how recent stipulations affect the chance for undocumented migrant children to equitably access education in South Africa. Similarly, a study conducted by the

[47] In the context of the current study, stakeholders refer to individuals in the education sector, as well as those who work with migrant children at different levels. These could include staff members at the Department of Basic Education, school principals, teachers at schools who would have the identified group of children in their classrooms, and officers at the Department of Home Affairs.

United Nations High Commissioner for Refugees (UNHCR), UNICEF, and the International Organisation for Migration (IOM), revealed that in some European countries, the UNHCR and UNICEF have produced educational training materials to educate teachers on refugees, asylum seekers, migration, and in essence, the rights of migrant children (UNHCR et al., 2019b). These provide platforms for policies on undocumented migrant children to be circulated at different levels of the society.

Quite specifically, one of the professionals explained how the training and awareness can be implemented.

> *"We have a couple of initiatives together with the Department of Basic Education, the new handbooks that have been developed, that are infused with human rights, or the life orientation, learning area from Grade 4, right up to Grade 12. I'm not sure if [they've] actually been endorsed. So that's one thing; making human rights part of the curriculum" (Professional 3, SAHRC).*

I probed this professional further on what they would recommend at a basic and higher education level where there is also an opportunity for programmes (topics) to be included in the curriculum. For instance, topics on human rights, respect for the inherent dignity of others, and cultural diversity could be included in the curriculum. These programmes concern strategies that move beyond policy to implementation levels across different levels of the South African education system. Equity would then be understood not just as what the government needs to do in terms of policy (equity from the top), but equity from the middle, where resource distribution (including intellectual resources) is used to ensure the problems experienced by undocumented migrant children are addressed. Unterhalter (2009) notes that equity from the middle "confers a sense that the social arrangements that make up the market-like flows that facilitate education and learning must be fair" (p. 421). One of the professionals from the SAHRC mentioned:

> *"What we are very strongly planning to do is to develop a Human Rights Commission sanctioned sensitivity and diversity program; we want to eventually roll out in all schools, in collaboration with the Department of Basic Education. So, those are some of those initiatives and then at university level, we started, so in the very beginning phases, but we want to develop online human rights course for all university students specifically those outside of law faculties and so on, that there will be this, let's call it a module, online module that they have to complete before they complete the pre-grad stage. So, those are some of the things that could eventually, you know, definitely help in various ways to erase xenophobic tendencies" (Professional 3, SAHRC).*

By implication, the basic education and higher education curricula should include topics that shed light on the rights of undocumented migrant children in South Africa. This inclusion was described as not just curriculum specified topics, but through age-suitable extra-curricular activities to combat discrimination and stereotyping of migrants in the country. Also, the inclusion of such topics in the curricula will require stakeholders (staff at the Department of Education, teachers, and school principals) to get trained on how to teach the topics in various classrooms. By extension, these stakeholders can benefit from the training and teaching of such topics in terms of the need for non-discrimination (as enshrined in the Constitution). A human-rights perspective on how to interact with individuals regardless of their background or nationality can be developed over time.

In addition, participants highlighted the need for extensive monitoring to ensure that completed training on policies results in implementation.

> *"And obviously, there's also a greater need from [all] stakeholders, to, you know, do some extensive monitoring, to make sure that, you know, the Phakamisa judgment is applied, and they are not those schools that exclude these learners" (Professional 3, SAHRC).*

> *"We need to find the human resources necessary to really popularise and monitor the outcome of the training about the rights of all children including undocumented children. And so that's in terms of access [to education]" (Professional 12, SAHRC).*

In relation to an earlier point (under the sub-theme: revising and revisiting admission requirements for public schools), monitoring thus remains significant for ensuring revised policies are fully implemented (Centre for Child Law et al., 2021). This monitoring and evaluation can take place at a provincial and district level for efficiency and effectiveness and can involve the Department of Education and private institutions interested in ensuring undocumented migrant children access schools, working together. Doing so aligns with the strategy provided by Dooley (2017) in a United Nations Children's Fund (UNICEF) report, as well as the European Commission/EACEA/Eurydice (2019) on engaging public and private institutions to aid the holistic integration of migrant children into schooling systems. Also, monitoring and evaluation provide opportunities for contextualised solutions to ensure equity (see Unterhalter, 2009).

6.1.2 Reason to move beyond government-level strategies

This study found that government-level approaches are relevant in tackling problems experienced by undocumented migrant children regarding their equitable access to education. These government-level strategies include the documentation of undocumented migrant children; revising of existing policies that relate to education and immigration; and the training of stakeholders. As indicated, government-level strategies align with equity from the top (policy and political levels; system and structure-based outlook on migration and education). Considering the study's conceptual framework, this level of equity is linked to the idea of 'capabilities' which, in this case, is the extent to which undocumented migrant children in South Africa will be able to achieve their functioning of attending school. This strategy generally seeks to address many of the problems experienced by undocumented migrant children, from a top-down approach.

While top-down approaches (government-based strategies), including the proper registration of the birth of children born to undocumented migrants in South Africa; revising of already existing policies on education and migration; and the training of stakeholders, are highlighted, there is also a need to move beyond policy and political levels to ensure that equitable access to education is viewed and understood from a bottom-up approach. The next strategy levels (see sub-sections 6.1.3, 6.1.5, and 6.1.7) allow for the consideration of aspects of agency (incorporating community level and individual level strategies) and the need for setting up both formal and informal ways through which undocumented migrant children in South Africa can access education. For instance, through NGOs that bridge educational gaps through formal and informal programmes for undocumented migrant children, platforms can be created for access to education. This supports the conceptual framework that has guided this work because the capability approach extends beyond policy levels and opens up platforms for considering the experiences and agency of undocumented migrant children, to access to education at an individual level. This current study thus broadens the narrow perspectives on considering only top-down approaches limited to policies, and the effects of these policies. Thus, the sub-sections that follow after, highlight other strategies.

6.1.3 Community-level strategies

Aside from government level strategies, participants extensively talked about community level strategies that could be implemented to ensure undocumented migrant children's equitable access to education. These strategies are explained under two sub-headings and include:

- Engaging with communities
- Continued assistance from non-government organisations (NGOs).

Each one is discussed in detail below with verbatim quotations to illuminate them.

Engaging with community

Participants described why community engagement can resolve some of the problems that affect equitable access to education for the identified group of children. To begin, the parents described engaging with the community as working together to build trust and peaceful living among themselves and other members of their communities. Community is referred to as a "concept evident among social groups" (Jewkes & Murcott, 1996, p. 557). This social group is not limited to only black non-nationals; it includes all (citizens and non-citizens – documented and undocumented). Community also refers to groups of individuals with similar interests such as a community of undocumented migrants. In this study, I refer to community to be the former which extends beyond undocumented migrants. This level of engagement is important because it introduces the possibility of grassroot interventions that allows undocumented migrant parents, their children, as well as other community members, to exercise their agency. The parents who participated mentioned assisting other community members (including non-migrants) in order to show trust and promote peaceful living.

> *"You know in community, all of us we are not the same, let's say there's some people that know that I have something in my hand that I can use to help my neighbour if they can get us together" (Parent 4).*

> *"So, they can support you. We in this community should just continue supporting each other so we can make [build] peace with ourselves" (Parent 7).*

Ideally, opportunities must be created for skills sharing and increasing the agency of all stakeholders at the community level. Here, skill sharing refers to people teaching other members of a community (including non-migrants) the skills they have mastered (see Doyle, 2020). For instance, some migrant parents might know how to cook staple foods in certain ways and could then teach locals in their communities. Also, skills that might have economic value in their contexts can be transferred to other members of the community. Doing this improves social cohesion on a communal level. Also, skills sharing can be organised by organisations that serve as a bridge between the undocumented migrants and their broader communities. Equity is implemented through the bottom-up approach of involving those who

are ‘oppressed’ as well as other members of the community; a collective form of agency can be created from such engagements.

For most of the professional participants, engaging with the community was believed to be a necessary step to ensure peaceful living and the doing away of discriminatory acts or practices by others:

> *“So, to root out this type of prejudice and discrimination [directed to undocumented migrant children], it's essential to have grassroots community level engagements, and to really change societal attitudes towards migrant children in general” (Professional 15, GDE).*

> *“Getting communities to engage with each other in the first place to note the similarities instead of our differences united in our diversity as a constitution phase, and if there are skills that our nationals bring with them, just to share it, so to empower the community more broadly. And that would also change that hardened attitude of us versus them to let work together to uplift ourselves. And so, it's also a question of empowerment, and of course, agencies” (Professional 12, SAHRC).*

However, nationalist perspectives on immigration would resist such community-based strategies. This is because, as stated earlier in chapter 5, nationalism emphasises the need for *difference* between groups of people, based on ‘where one comes from’. This remains a significant problem. There would need to be a reconsideration of the lens through which immigration is explained in the South African context through policies, and through the agency of members of communities. This reconsideration could be through training of stakeholders as well as members of the community through the inclusion of programmes in the curricula (as discussed under section 6.1.1).

Expressing how community engagement could work out, the same professional further explained:

> *“And I think when we talk about this community initiative, to do this and to just help each other and address the issues facing us, like unemployment, and so on together as a community, faith-based leaders and the faith-based community will also play a very important role in mediating these conversations as we work. And then of course, school communities, it would be great. If we could really start from the bottom up and have a community that supports the school, the greatest extent possible, that takes the school, because as we know, schools are sub targets for vandalism and theft, and so on. And if we can build social cohesion at that level, it would be absolutely*

fantastic. That is the best way to achieve some level of social cohesion in this country is if it starts with the people on the ground in their communities. And so, this would be a top, a bottom-up approach instead of a top-down approach" (Professional 12, SAHRC).

Here, faith-based organisations and leaders can play a vital role in ensuring that discrimination and xenophobia in communities are addressed. Orobator (2005) confirms this strategy arguing that the Church, being a religious and social community can ensure that conditions of hospitality toward migrants are achieved. Evidently in this current study, religious organisations such as The Project serve as bridges through which reflections can be held in communities. This form of intervention takes place at the grassroots' level because it allows for direct engagement with individuals, without waiting on government strategies. This also supports the idea of engaging the agency of community members in a collective way, to ensure that discriminatory acts no longer serve as a basis for the lack of access to education for undocumented migrant children in South Africa. Support from these organisations also provide opportunities for the children to achieve their functioning of being educated.

For another professional, critical engagement across, and in communities, is illustrative of a reflective process where everyone is listened to, and platforms for equity created.

"Firstly, by listening, to listen and reflect; we should just try to listen and reflect what others are saying…. It will help to ensure that people are valued and also have the same access to all opportunities whatever their differences. So, I believe it will help if we should just take a look at it like within the community if we can just avoid that stereotype in our society. And also treat everyone fairly" (Professional 14, The Project).

Similarly, another professional said:

"And I just wish that there was, there were more dialogues between the communities, which I mean, I know there are initiatives like this, by the UNHCR, for instance" (Professional 2, The Project).

This participant revealed that initiatives from the UNHCR and other Non-governmental Organisations (NGOs) are meaningful for overseeing community engagements. The UNHCR South Africa multi-country office states that it will continue to work through traditional and strategic partnerships to support the achievement of tangible improvements between migrants and their host communities (UNHCR, 2022b). Considering NGOs, a study by Misago et al.

(2015) found that such organisations are valuable for fostering peace between migrant and non-migrant groups in various communities. However, there must be implementation, accountability, and evaluation of the initiatives rolled out by these organisations (see Misago et al., 2015). The community-based conversations that have been suggested must include the undocumented migrant children.

In addition, other participants reported on the importance of including the undocumented migrant children in conversations relating to the problems they experience that have an impact on their opportunities to access education. It was suggested as important to hear the children's voices to understand their problems, needs, feelings, and ideas in order to provide contextualised solutions to equitable access to education.

> *"So, leaving them out of the conversation certainly does not do us any good. I think engaging them and allowing them to participate in the dialogue that we have is also important to ensure that whatever thing that we think they want is what they actually want for themselves" (Professional 12, SAHRC).*

> *"We also have to involve these children when we start talking amongst ourselves in the community. When we include them, we will understand how they feel, and it'll be easy to find out what we can really do to assist them" (Professional 10, The Project).*

> *"For me, I must say that we must never exclude the children when we start discussing or having conversations. Imagine what will happen when we include them? There'll be so much of ideas and ways to act so that they can attend school as long as they are in South Africa" (Professional 9, The Project).*

This inclusion of undocumented migrant children in decisions relating to their needs and interest creates further platforms for dialogue. UNICEF (2021) describes dialogue as a process of understanding and learning from various perspectives. Also, dialogues should include the more vulnerable groups of individuals, in the case the undocumented migrant children (UNICEF, 2021). By implication, undocumented migrant children will be given a platform to participate in issues that directly affect them. It would also lead to the release of these children's voices in the communities and beyond. This relates to undocumented migrant children being able to exercise their agency, both individually and as a collective (Mkwananzi & Cin, 2020; Robeyns, 2017; Sen, 2009b; Unterhalter, 2009). In a study conducted by Chiyangwa and Rugunanan (2022) in Limpopo, South Africa, it was found that some of the migrant children

were able to individually act to exercise control over their situations. For instance, some of the children reported others who called them derogatory names (such as 'kwerekwere' described in chapter 1, section 1.3). Other children in the study reported to their fellow migrant friends who could report the discriminatory attitudes on their behalf. However, other migrant children reported that it was a problem to individually overcome institutional barriers especially on accessing education (Chiyangwa & Rugunanan, 2022). Similarly, Sen (1999) writes that "the freedom of agency that we individually have is inescapably qualified and constrained by the social, political, and economic opportunities that are available to us" (pp. xi-xii). While opportunities for undocumented migrant children to act individually are encouraged, there is a need to also work together to ensure that engagement with their communities is meaningful.

Assistance from organisations

Another aspect of community-level strategies that was identified by participants was continued assistance from NGOs. This strategy was considered important because NGOs are able to work directly in communities where undocumented migrant children and their parents reside. Also, these NGOs are not government run so, there would be opportunities for undocumented migrant children to exercise their agency through initiatives developed by the NGOs without worrying about their legal status.

For the parents, this suggestion came from their experiences with the Project.

> *"I think if you can find someone who will help us. Without someone who can help us, I don't think we can manage, on our own we can't. On my opinion, I can, let's say if I can say, for example, The Project now and they make others like The Project I think they can work with the government to help, I think so" (Parent 7).*

> *"Then I try to explain to her that I don't have money to put them in the school, then secondly, I don't have paper. Do you know what she said to me, she introduced me to The Project – Okay, if you go there, but I'm not going to follow you – but she directed me, that if I go to there, that I will surely get help there. So, then when I go there, I spoke to them, to God be the glory, they helped me with three out of five [children] I have" (Parent 4).*

> *"If they can open up projects like The Project [it] is okay" (Parent 9).*

The professionals argued that help from NGOs would bridge the gap between the undocumented migrant children and the education system, as well as serve as a support system for the identified group while they remained in South Africa. This educational gap bridging was considered important because education is a multiplier right (see chapter 4, section 4.1.1.2). Some of the professionals said:

> *"So, giving them more options in access to education like the Project, like align more access to more children so they are continuing with their education and then when they are trying to enter mainstream education, they do still have that learning in place. And I also think things like, for kids if they do have learning problems or disabilities, for maybe some of those NGOs to incorporate support strategies for that. For maybe anything, things like access to occupational therapy or speech therapy or counselling can also be available to help them integrate better into mainstream education when that is available to them" (Professional 5, The Project).*

> *"You can add more projects like the Project which just accommodates kids; which doesn't [discriminate] because of where the children are from; they don't ask papers; they will try to assist you to get your documents. So, maybe if we can have so many projects like that, it will also help" (Professional 9, The Project).*

This finding highlights the significant role NGOs play in cushioning the socio-economic effects of migrating to South Africa. This role of NGOs was described as extremely hopeful for undocumented migrant children and their parents. For the parents in this study, The Project provided for basic needs, such as food and clothes. In addition, the Project created a learning programme for the undocumented migrant children. This is representative of a space for learning and the development of individual and collective agency. Similarly, Mkwananzi and Cin (2020) found that Albert Street School[48] served as a space for undocumented migrant youth to be educated. Such spaces create opportunities for the achievement of educational functionings; this is part of what the expansion of capabilities entails (see Unterhalter, 2009). From their findings, Mkwananzi and Cin (2020) argued that a collective form of agency was

[48] Albert Street School is owned by the Central Methodist Church in Johannesburg which has been a sacred sanctuary to migrant children of school-going age who were exposed to violence as a result of the 2008 xenophobic attacks on foreigners in South Africa (Mkwananzi & Cin, 2020, pp. 321-322). "In July 2008 the [Methodist] Mission re-opened the Albert Street school to provide a regular schooling environment for the increasing number of unaccompanied children seeking refuge with us. The school currently serves over 500 learners- providing structured classes from nursery school to Cambridge A levels. More than a hundred of the learners are unaccompanied children staying in the church. Others are the children of refugees who do not have the right documentation to attend state schools or children of South African whose parents cannot afford to send them to state schools".
See https://www.betterplace.org/en/organisations/1335-central-methodist-mission-albert-street-school.

developed because of the platform created by the Albert Steet School. It is important to restate that a collective form of agency is meaningful for individuals who are in vulnerable because, for "the less privileged, attaining development as freedom requires collective action. Organised collectivities… provide an arena for formulating shared values and preferences, and instruments for pursuing them, even in the face of powerful opposition" (Evans, 2002, p. 56).

Furthermore, professionals in this study noted that there was a need for these NGOs to place pressure on the government to ensure that undocumented migrant children's right to education is upheld. This was particularly discussed in reference to equitable access to education, as well as the distribution of resources to schools. Equity from the middle is thus evident because while the NGOs work to engage the undocumented migrant children through educational bridge programmes, the government must also tackle the problems that prevent access to education. Some professionals said:

> *"But as I said, we can keep hoping and as also CSOs [Civil Society Organisations] we need to push for this kind of, you know, towards this kind of acceptance of foreigners in the country and equal rights, etc." (Professional 2, The Project).*

> *"So sometimes it is necessary. I mean, litigation is not the panacea for any of the socio-economic issues. But sometimes when there is just constant delays and delays and delays and say a province or we just don't have the budget for it, then litigation [from the NGO] is necessary, even if it is just to get the right decision made in court. So that if it is for example, deficient budget, that's the problem, then national is there and treasury is also there or whatever the case might be, so that the resources can be found and allocated" (Professional 12, SAHRC).*

Again, in line with Evans (2002) and Mkwananzi and Cin (2020), the space provided by the Project for undocumented migrant children allows for them and their parents to interact and work together to access education. This also algins with the study's conceptual framework because working with NGOs, like Albert Street School and the Project that I worked with for this current study, creates platforms for agency to be recognised. I state this because agency involves participation in activities one values in order to bring about change and freedom from structural limitations (see chapter 2, section 2.2.2). Using the capability approach and equity from a threefold perspective, a community-based engagement which involves collating resources would create opportunities for "grassroot participation" (Mkwananzi & Cin, 2020, p. 321). Grassroot participation signals a bottom-up approach to tackling issues that badly affect

undocumented migrant children and initiatives such as the Project provide actual educational and socio-economic opportunities which have a positive impact on the communities and larger South African society.

6.1.4 Community-level strategies and raising notions a collective kind of agency

To reiterate, strategies beyond the policy level play significant roles in ensuring equitable access to education. Under this finding, engaging with the community, assistance from NGOs, and adoption were indicated. From these findings, notions of working together as a group – undocumented migrant children and their parents – are raised. Although each individual might experience the identified problems (such as discrimination and xenophobia, lack of access to basic services, lack of documentation; see chapter 5) to different degrees, what remains significant is that undocumented migrants are all susceptible to these difficulties. A collective kind of agency can therefore be meaningful in addressing the problems faced. The capability approach provides the opportunity to consider the freedom of people to exercise their agency to achieve the functionings they value. However, individual attempts are hampered by structural limitations which permeate various levels of society. In his book titled *Development as Freedom*, Sen (1999) notes that 'instrumental freedoms' include economic opportunities, political freedoms, social facilities, transparency guarantees, and protective security. For him,

> societal arrangements, involving many institutions (the state, the market, the legal system, political parties, the media, public interest groups public discussion forums, among others) are investigated in terms of their contribution to enhancing and guaranteeing the substantive freedoms of individuals, seen as active agents of change, rather than as passive recipients of dispensed benefits. (Sen, 1999, pp. xii–xiii)

This means that, in the case of ensuring undocumented migrant children achieve being educated (their valued functioning), NGOs and communities need to work together. These NGOs will serve as middle level actors of equity to ensure access to education for the children (Unterhalter, 2009). Even though undocumented migrant children need to be viewed as active agents of change, there is also a need for them to work with interest-based groups. Here, interest-based groups refer to individuals who have similar interest – education. A focus only on individualised ways of exercising agency is itself limiting because of the obvious structurally embedded problems in South African society. Such a limited focus also ignores the significance of collectivity in enhancing the exercise of the individual agency of undocumented migrant children (see Deneulin et al., 2006).

While structural limitations (policies, frameworks regarding access to education) continue to perpetuate inequities which are visible through actions within communities and institutions (such as discrimination and xenophobic attitudes, and lack of access to basic services), undocumented migrant children and their parents can collectively work together with NGOs and the broader communities to achieve the freedom to be educated. In so doing, key elements that are evident throughout structurally embedded injustices can be critically considered. Moreover, when working together is established by undocumented migrant children and their parents, a "historical continuity" (Deneulin et al., 2006, p. 4) of the interest-based group would be formed and rooted in the South African society.

6.1.5 Individual-level strategies

Individual-level strategies to tackle the problems undocumented migrant children face regarding their equitable access to education in South Africa were discussed by various participants. Due to the complexity of the legal status of the parents and children, individual strategies were few. These strategies include individually promoting social cohesion and seeking documentation. Each of these are presented in detail below.

Individually promoting social cohesion

The professionals revealed that one way to overcome some of the problems faced by undocumented migrant children and their parents was to promote social cohesion. Supporting this, a professional stated:

> *"I think there really is an obligation on each and every one of us, no matter of socioeconomic status, or power that we might hold in terms of a job or whatever, every single one of us to internalise and promote equity in our own context and our own spheres. And I think that's very important and that's something that the promotion of equity and provision of unfair discrimination act amendment for that reason, because a lot of controversy is actually trying to instil and to impose an obligation on everyone to promote equity" (Professional 12, SAHRC).*

Another professional, in expressing the need for interconnectedness and the willingness to work together with each one in the society, mentioned:

> *"It all depends on individuals' willingness and engagement" (Professional 11, The Project).*

Promoting social cohesion at an individual level is important for striving towards equity. Social cohesion here suggests van der Meer and Tolsma's (2014) description of the concept:

> Social cohesion may be regarded as the degree of interconnectedness between individuals that is both a result and cause of public and civic life. It encompasses feelings of commitment, trust, and norms of reciprocity and is demonstrated by participation in networks and civic organisations. (p. 460)

This means that social cohesion involves everyone, including locals and undocumented migrant children and their parents, deliberately connecting with others in their communities to ensure trust, commitment, and participation in community-based activities for the improvement of the communities. The importance of individual willingness to work together with other members of a community was also highlighted, and in the case of this current study, would help in rooting out acts of discrimination and xenophobia. Important is that the willingness of individuals to work to promote social cohesion speaks to both undocumented migrants and non-migrants' individual agencies to ensure acts of discrimination are tackled, and equitable access to education is attained. Agency can be achieved through action, based on what a person values or has cause to value, whether or not the action taken is individually convenient (Crocker & Robeyns, 2010). This means that for undocumented migrant children to achieve equitable access to education, they must firstly value education. Based on the findings in chapter 5 (see sections 5.1.2.1 and 5.1.2.2), it is clear that education is valued and viewed as a multiplier right. Being a multiplier right means that education influences the development of other capabilities. For instance, educational skills such as reading and counting are important beyond the walls of any school (Walker, 2005). Unterhalter argues that "equity from below takes seriously aspects of *personal heterogeneity* both in circumstances and in conceptions of a *good life*" (2009, p. 418, emphasis added). Hence, while the South African context might constrain the freedom of undocumented migrant children to access education (through policies and the distribution of resources), their personal value of being educated motivates them to work together. Here, working together can take place despite differences in circumstances, and this would bring about an expansion of their capability of education in difficult situations.

Providing a more explanatory account of how social cohesion can be fostered individually, one other professional stated:

> *"To live with them properly, to avoid this xenophobic attack. It is all depending on education and the mentality, and also your heart. If you're ever in a loving heart, you won't hurt any other person coming out from outside or anyone that you don't know, just by looking with that hatred. You don't even know the person, you just you know that he's not speaking my language, I don't like the person know, you see. So, it is a process…" (Professional 7, The Project).*

Also, the study indicates undocumented migrant children and their parents, and other members of these communities must be mindful and responsive in order to exert pressure on other levels of society. When these people become mindful, they can rethink notions and stereotypes that affect the equitable access to education for undocumented migrant children. A professional added that:

> *"The government can't do everything, and also as an individual also, if we can support one another by being mindful of each one" (Professional 14, The Project).*

Mindfulness means being culturally responsive to every other individual. Cultural responsiveness refers to recognising differences as strengths, fostering a safe learning environment, and advancing justice and fairness in society (see Miller et al., 2019). This means that in the context of my study, there is a need for individuals – undocumented migrant children, their parents, and non-migrants – to recognise the obvious heterogeneity that exists on a personal and at a group level to ensure equity is achieved. Doing so allows for these individuals to build respect and tackle problems experienced in relation to undocumented migrant children's access to education. Unterhalter (2009) notes that having discussions and participating in debates contributes to achieving justice. That which is valued – being educated – by undocumented migrant children would then be considered important by both migrant and nom-migrant members of the society. This would in turn allow for an expansion of the freedom for this group of children to equitably access education through a bottom-up approach.

Seeking documentation

One of the actions considered important for addressing the problem undocumented migrant children face was the need for their parents to get documentation for themselves, as well as for their undocumented children. This strategy was also mentioned by some professional participants. Although it can be a dead-end, some professionals advocated for this strategy:

> *"If you get a child, don't just sit home, and say it's very hard to get the paper, try; go there to Home Affairs, try, if you are lucky, you will get it, if not, then you will know that you have tried. So, let's not just relax and say, I'm not able to get papers, try, people try" (Professional 10, The Project).*

> *"If you say you are a parent, where have you been all along because why is this child not registered from the point of birth, you know? It happens, but those are the types of questions that*

comes in… so, let parents try to sort out their children's documents. You need to go and do it as the guardian or parent of the learner of the child" (Professional 8, GDE).

So [for children who were not born here] somewhere along the line there is a guardian, or you woke up and someone organised for you to come this way [to South Africa]. So, the people that encouraged you to move from your country this way need to then ensure that you have the papers" (Professional 15, GDE).

Participants pointed that there was a need for the parents of the undocumented migrant children to seek documentation for themselves and their children. This strategy was mostly given by professionals suggesting that they are unaware of the complexity of the problems that the undocumented migrant children and their parents face. A study by Sutton et al. (2011) showed the fear migrants face of being expelled from South Africa, because of the difficulty and complexity of waiting for and getting permits. Similarly, in the Daily Maverick online newspaper, an article by Owusu-Sekyere and Willis (2022) reported that the South African government from 2012, had closed refugee centres in different provinces and this closure meant that many refugees and asylum-seekers became undocumented because they were unable to renew their permits (even if they tried to) without the centres in place.

This situation illustrates Unterhalter's (2009), claim that when equity is constrained from the top, it affects equity from the middle and below. From the middle, the distribution of resources (like refugee centres for the renewal of legal documentation) becomes limited and from below, undocumented migrant parents are prevented from ensuring that their children (also undocumented) are able to access education in South Africa. Considering the conceptual framework of this study, it is important to consider a form of agency that would work to move beyond the limitations obvious from an individual-based level. This form of agency is a collective form which could allow for practical ways through which the right to equitable access to education can be fostered.

6.1.6 Beyond individual-level strategies

This was another critical strategy that was reported by our participants. The strategies include individually promoting social cohesion and seeking documentation.

To reiterate, considering the complexity that exists concerning their legal status, a collective form of agency can be put forward to go beyond individual limitations. However, this collectiveness does not overshadow the individuality or heterogeneity of the experiences of the undocumented migrant children that participated in this study or in general. The need for such consideration is based on collective agency being a platform through which the marginalised undocumented migrant children can achieve the freedom to be educated in South Africa (see Chiyangwa & Rugunanan, 2022; Mkwananzi & Cin, 2020). Practically, undocumented migrant children can begin to critically engage with their peers at NGOs and in their communities through educational projects. Such projects would include programmes that demonstrate the importance of education for the benefit of the communities, as well as individuals. This benefit goes beyond economic value, towards human development which, in this case, refers to providing undocumented migrant children the opportunity to access education to create the platform for them to thrive (see United Nations Development Programme [UNDP], 2022). In the next sub-section, I will highlight the possibility of undocumented migrant children and their parents working together as a group to ensure equitable access to education.

6.1.7 Combined and planned approach: An integrated approach

Another finding identified is the need for an integrated approach (also referred to as a combined and planned approach) to ensuring equitable access to education for the identified group of children. This approach is a recommendation to address problems experienced by undocumented migrant children about their access to education in an equitable way from all levels of the society. The approach was considered important by the professional participants because access to education for the identified group of children in the South African context is complex. So, any practical strategy must include all levels of society (government, community, individual) making a combined effort to uphold the right to education for undocumented migrant children. Some of the professionals said:

> *"And so, it's access number one, infrastructure number two, and quality of education number three, but we can't approach it sequentially like that, as a whole society, we need to put our minds to addressing all three components in tandem" (Professional 12, SAHRC).*

> *"I think it's such a multi-layered issue, but I definitely think there needs to be things in place to be working to create more tolerance" (Professional 5, The Project).*

When I asked one of the professional to explain in detail, the need for a combined approach to ensuring access to education for the undocumented migrant children, he mentioned the following:

> *"It's a very difficult matter to address, you know, there's been many efforts from government, from the Human Rights Commission and so on. But to a large extent, it is a process of continued human rights education, to, you know, to ensure that people understand the rights not only their own rights, but also rights of other people and respect that. So, it is in a sense to really build a culture and bring about a culture of human rights generally, in the country. And although we have an excellent constitution and a well-functioning constitutional democracy, including the independent courts and so on, one still finds, unfortunately, that the constitutional values and the human rights values in the Bill of Rights have not necessarily been upheld through to an extent that people are embracing those as they should. It is really one of the big issues in the country and something that needs to be attacked in detail and I think it will be a good contribution" (Professional 3, SAHRC).*

Here, the professional clearly identifies that the South African Constitution was drafted from a human rights perspective (refer to table 2.1 in chapter 2) and the possibility of the freedom for undocumented migrant children to access education based on the Constitution's human rights perspective. However, as indicated by the professional from the SAHRC, what remains difficult is the implementation of the stipulated rights enshrined in the Constitution.

There is therefore a gap between how equity is expressed through human rights-based policies and the reality of the South African society. A bottom-up approach must be considered alongside the top-down approaches as illustrated through the study's conceptual framework. Unterhalter (2009) says:

> distinguishing different forms of equity highlights a number of processes that complement each other in expanding a capability set. From the bottom it is important to look at agency, from the top to look at rules and institutions that frame negative and positive freedoms linked to a theory of justice, and from the middle to ensure flows of resources, a dynamic between ideas and values that is attentive to limits and judgements, but not just meagrely constrained by these assessments. (p. 422)

In expressing the need for a combined and planned approach, another professional highlighted the need for the political will to tackle the problem of undocumented migrant children being unable to attend school in the country. It was also suggested that the government would need to begin the process:

"But I think it needs to be done more, and maybe by the South African government itself, to also show the way, but it would require political will to do something in their jobs, which I don't think there is at the moment" (Professional 2, The Project).

There was also consideration for an environment that allows the undocumented migrant child to thrive, which cuts across all levels of society.

"I believe if they need to establish an inclusive environment early; so, with that I believe it will assist the undocumented children. I mean by already having the plans for children that are not indigenes and are undocumented children. It should be in their [South Africa's] plan. They must just try to create a space, surely there will be some children without a document; so, if they can just include that to their planning, to their programme, it will surely help, it will help, it will assist" (Professional 14, The Project).

An inclusive environment would have plans in place to deal with cases where there are undocumented migrant children and ensure their basic right to education. This would be through policy, down to the actual distribution of resources that relate to their educational rights in South Africa.

6.1.8 What is required: A combined and planned approach (An integrated approach)

Although participants mentioned the government, community, and individual level strategies as singular items, there was a suggestion of the need for a combined and planned approach to tackling identified problems to ensure equitable access to education for undocumented migrant children in South Africa.

While I recognise the need for equity from below, which highlights the role of agency. I also acknowledge that this finding is one of the study's contributions to debates on migration and education for undocumented migrant children. The contribution is in conceptualising how, beyond policy level, undocumented migrant children and their parents are able to exercise their agency in light of the broader structural (policy/ political) limitations in South Africa. Agency refers to the ability of undocumented migrant children to choose to attend the Project, despite their inability to access formal schools in South Africa because of their legal status. The fact that the Project does exist refers to equity from the middle where actions are taken to ensure that undocumented migrant children are able to access schools through bridge programs. However, this ability to act independently is constrained by top-level interferences in society,

including through immigration policies, the country's view on migration, and the high level of securitisation in South Africa. Based on the study's conceptual framework, it is evident that the current policies in South Africa constrain the freedom of undocumented migrant children to express themselves through what they value (see de Haas, 2021), and in essence prevent their human development.[49] When human development is mentioned, issues around equity must also be considered. As Kline (2009) puts it:

> Both equity and human development depend for their realisation on a spirit of justice and of mutual respect, concern, and empathy. They also require commitments to equal rights, with appropriate codes for the protection of all peoples, and to an open and fair structure of participation, at local, national, and global levels. Equity and human development are, thus, inextricably interwoven; one cannot be realised without the other. Indeed, this is the large lesson gleaned from past efforts to promote development: neither valued end can be realised without the extraordinary work and commitment of a united front of dedicated people of good will and reason. (p. 55)

The study's conceptual framework argues that equity is a combination of efforts and doings from different levels in society to ensure that basic human rights are upheld. Equitable access to education thus requires this combined (integrated) approach to equity as it relates to the undocumented migrant child's access to and right to be educated. By extension, to achieve equitable access to education there must be the working together of different levels of society (which includes a three-fold perspective on equity) to enforce the basic right to education, regardless of one's legal status. The freedom to achieve what undocumented migrant children want to do and value, depends on this understanding of what equity means.

In practical terms, undocumented migrant children attending the Project are able to mobilise their agencies by gaining education through the platform the Project provides. Their grassroot mobilisation to access education begins from a bottom-up approach through which they, their parents, and other stakeholders can build a collective voice and can place pressure on the South African government. Moreover, through attending the Project, they are able to build capacity (being able to read, write, and understand themselves), which is required for their ability to flourish. Building capacity can also raise awareness about policy and practice misalignment

[49] "Human development is about expanding the richness of human life rather than simply the richness of the economy. It focuses on people and their opportunities and choices" (United Nations Development Programme [UNDP], 2022, para. 3).

and a channel to agitate for the enrolment of undocumented migrant children in schools and to issue them birth certificates with registration numbers.

In conclusion, this chapter has included the findings, analysis, and discussion of the third objective that this study endeavoured to achieve. Specifically, the objective explored strategies that can be developed to tackle the problems in the South African context about undocumented migrant children's equitable access to education. The findings indicate that the strategies can occur at the levels of government, community, and individual. While these strategies were expressed differently, it was highlighted that a combined and planned approach must be given urgent consideration. This combined approach relates to an integrated strategy (for thinking and doing) that involves all levels of society in ensuring that undocumented migrant children are able to access education in an equitable way. Important is that the suggested approach also highlights the agency of the undocumented migrant children which relates to their human development and fulfilment of their basic right to education, as a capability that they value. Hence, these undocumented migrant children, through working together with the Project are able to build communities that can act (participate) in pressuring South African society to bring about the implementation of recent judgments, policies, and legislations that strongly affect their ability to be educated. In addition, the discussion on the findings has been considered through extant literature as well as the study's conceptual framework.

I argue that the strategies require an integrated approach while drawing strength from the agency of undocumented migrant children, which is being developed by engaging with bridging educational programmes. While the different levels of society need to work together, a bottom-up approach can ensure that other levels of society begin to work to ensure that these children are able to access education. What thus stands out in this chapter is the role individual and collective agency play in the achievement of equitable access to education for undocumented migrant children in South Africa. An approach that highlights collective agency without overlooking the individual differences of these undocumented migrant children is put forward. In the next concluding chapter, I provide a reflection on the current study's conceptual framework, recommendations, and an overall concluding section.

CHAPTER SEVEN: AN INTEGRATED DISCUSSION AND CONCLUSION

Leading up to this current concluding chapter, I presented a background to the study and the study's objectives (the introduction); I reviewed extant literature that align with the study's objectives (chapter 1); I presented the conceptual framework used for the study (chapter 2 – the capability approach combined with a threefold explanation of equity); and I described the qualitative methods employed (chapter 3). In chapters 4, 5, and 6, I presented the findings and analysis of the data (based on the specific study objectives) including discussions based on reviewed literature, and the study's conceptual framework in each chapter. These chapters (4, 5, and 6) highlight contextual contributions and present evidence which support the central argument that this study makes to debates on equitable access to education for undocumented migrant children in South Africa. To restate, the central argument is that, to ensure equitable access to education is achieved in South Africa for undocumented migrant children, there must be an explanation of equity from a multi-faceted perspective combined with key concepts from the capability approach.

Chapter 7 presents an integrated discussion and conclusion of the study. I begin with a summary of the study objectives, as well as the findings that concern each objective. Next, I present an integrated discussion which includes a reflection on cross-cutting study themes and a reflection on the study's conceptual framework. I then present limitations of the study which acknowledge that this thesis is not, in itself, sufficient to answer all the questions on equitable access to education for undocumented migrant children in South Africa. Thereafter, I give recommendations and future directions for research, and end with a concluding section.

7.1 Objectives and findings

The main objective of this study was to explore the opportunities and problems undocumented migrant children experience in relation to education. Here, an explanation regarding access to education for undocumented migrant children from an equity viewpoint in South Africa is developed. Specific objectives were raised to achieve the central objective of the study. Table 7.1 shows the specific objectives, as well as a summary of the key findings that answer each objective.

Table 7.1: Summary of the study objectives and the central findings under each objective		
Specific objective	**Thesis reference**	**Central findings under each objective**
Objective 1: To explore what undocumented migrant children and their parents, NGOs and government officials who deal with migrant children understand as access to education, in relation to equity in South Africa.	Chapter 5	Under the first objective, equity was defined, and access to described in relation to equity and the importance of education. - Undocumented migrant children, parent of undocumented migrant children, professionals - GDE, NGO, and SAHRC staff members who deal with undocumented migrants – defined equity as fairness and the actual opportunity to thrive. - Equitable access to education is explained as providing education for all children regardless of their legal status in the country. - It was also noted that equitable access to education allows for consideration of the significant role of education. This includes being able to access other basic services at schools; equitable access to education as a capability and multiplier right; being able to avoid social ills and build a career.
Objective 2: To investigate the problems of migration on undocumented migrant children in relation to equitable access to education in South Africa.	Chapter 6	The impact of migration to South Africa and being migrants in South Africa was described by participants as largely negative. Undocumented migrant children and their parents experience various problems around equitably accessing education in the country. - The lack of documentation was found to be an overarching issue that prevented undocumented migrant children from equitably accessing schools. This documentation includes the lack of proper birth registration and so, birth certificates as well as their parents' own lack of documents. - Discrimination and xenophobia was another problem that emerged from this study. The children described this as bullying; the parents and professionals gave more complex explanation including discrimination and xenophobia as both vertical and horizontal limitations that policy, and the opportunity for the identified group of children to access education has an impact on. - The lack of basic services was also discussed. Here, the parents and professionals mentioned the difficulty in accessing services such as healthcare and stable accommodation because of their legal status which affects their ability to find decent work. Inability to access basic services further reduced the opportunity for undocumented migrant children to get enrolled at schools. - Policy gaps were particularly revealed to have a negative impact on the opportunity for undocumented migrant children to access education equitably. These gaps include policy ambiguities and misinterpretations.

		- The Covid-19 pandemic presented a new and complicating problem that undocumented migrant children and their parents experienced, and this further exacerbated their already existing issues. Some of the effects of the pandemic that were revealed include an excluding online GDE school application website; the loss of sources of livelihood; and the inability to renew expired asylum permits.
Objective 3: To develop strategies that can be used to address the problems of migration on the undocumented migrant child's equitable access to education in South Africa.	Chapter 7	From the findings, three levels of strategies emerged and a combined approach to tackling the problems experienced by undocumented migrant children about their equitable access to education. - Government-level strategies present top-down approaches to tackling the problems of the lack of documentation, equitable access to education, and policy gaps. The importance of training stakeholders was found to be significant at government level. - Community-level strategies highlighted were engagement with members of communities from faith-based organisations, and NGOs. Community engagement allows the undocumented migrant children to release their voices. Other community strategies are assistance from NGOs. - At an individual level, the strategies suggested were promoting social cohesion individually and seeking documentation. - A combined approach was also suggested. This approach brings together the different levels of strategies to ensure that undocumented migrant children access education in an equitable manner. This approach highlights the importance of education as a way of promoting human dignity, development, and the fulfilment of various rights.

7.2 Integrated discussion

This research represents an inter-disciplinary study that includes ideas on migration as well as education. In the previous section, I provided a summary of the findings of this research using a table (see table 7.1). In this section, I do not merely repeat the findings of this study. Rather, I include key themes and that pull together different strands of the thesis and I highlight the study's contribution to knowledge.

7.2.1 What equity in education means

One of the first contributions this study makes to debates on equitable access to education for undocumented migrant children in South Africa is the gap in the meaning of equity and equitable access to education. Employing a qualitative approach, I found that how equity is explained determines how equitable access to education is also understood. In this study, participants expressed equity in terms of fairness and providing the opportunity for undocumented migrant children to thrive, beyond any limiting factor. Equitable access to education was not tied to certain groups of children, but to *all* children as enshrined in the South African Constitution. The capability approach and three-fold equity highlight this meaning of equity in education because the extent to which individuals are free to do what they value is either constrained or enhanced by the different levels of equity. Also, attending school (functioning) is affected by policies, distribution of educational resources (both material and intellectual), as well as the agency of these undocumented migrant children. However, in South Africa, 'equitable' access to education is derived from a nationalist perspective which excludes individuals that do not 'belong' (see chapter 5, section 5.1.1). This is not equity because discrimination is evident thus and being 'free' to attend school is dependent on structural limitations. Therefore, what equitable access to education means is determined by a combination of what each aspect or dimension of equity represents in the South African context to *all* groups of children. To go beyond such nationalist perspectives on equitable access to education, there must be an explanation of equity as fairness where the achievement of the freedom to be educated is not dependent on one's 'natural position' which is possessing legal status in South Africa. This is a consolidated perspective.

7.2.2 Structural limitations

Another contribution this study adds to existing literature is the identification of structural limitations, which affect other levels of society, and continue hinder what the experience of equitable access to education must be for *all* children. As per the group of children focused on,

the limitations experienced by undocumented migrant children were highlighted. These problems were experienced by both the undocumented migrant children and their parents, in most cases. It was important to carefully engage with these problems because they are context-based, and the identification of them brings about possibilities for finding tailor-made, contextualised solutions. Robeyns (2017) argues that structural limitations must be included in capability frameworks because they can significantly influence how individuals' capabilities are expanded. In the case of this current study, because of the legal status of undocumented migrant children in South Africa, structural constraints differ from other non-foreign children. The capability set for undocumented migrant children is, as the research shows, significantly affected by these structural limits (see chapter 5). Every capability framework must thus include an explanation of structural restrictions, even if it is often quite self-evident (see Robeyns, 2017). To identify these constraints, research methods that allow for interaction with those who are being considered must be employed as this study has done.

7.2.3 An approach for ensuring equitable access to education

This study has also contributed to developing an approach for ensuring equitable access to education for undocumented migrant children in South Africa by exploring strategies that would be useful for ensuring that these children have the equitable opportunity to access education. This approach has been referred to as an integrated approach (for thinking and doing). It highlights the importance of a wholistic range of interventions that do not only follow a 'top-down' approach but also considers a 'bottom-up' approach. Reed-Sandoval (2020) notes that "ground-up social mobilisation, often waged by members of oppressed groups themselves, and when appropriate, their allies, and not exclusively state-centric solutions" (p. 7) is significant for achieving social justice. This intersection of both forms of intervention illustrates the significant role of both individual and collective forms of agency play to bring about change in the educational opportunities available to undocumented migrant children in South Africa which would lead an expansion of their capability. There would thus be an understanding across different levels of society that undocumented migrant children value education and that the different levels must cooperate to ensure this access. Knowing that these children value education, it is vital to ensure that they are able to access this right because it bears on their other future, lifelong opportunities, and possibilities for the enjoyment of other capabilities. Because of this, issues on human development can also be raised, so that, beyond just explaining education as being able to get jobs or be economically dependent,

undocumented migrant children will be able to fully participate in society and live their full life potentials.

7.3 Overall thesis and the study's contribution

To reiterate, the overall thesis has been that to ensure equitable access to education is achieved, equity must be explained in detail, as a multi-faceted notion, and combined with the capability approach which allows us to identify and interrogate specific structural limitations. From the evidence provided across chapters 4, 5, and 6, support for this central argument has been made.

In chapter 4, equity is explained to mean fairness and the opportunity to thrive, but this does not specifically account for the structural limitations or explain what undocumented migrant children value. An account of specific structural limitations at different levels of society as well what these children value is thus necessary. What this study illustrates is that when equity (from a three-fold perspective) is combined with the capability approach, there would be various opportunities to identify structural limitations at specific levels (micro, meso, and macro). There would also be opportunities to identify what undocumented migrant children value through interaction with them. From here, possibilities for effective policy making and implementation arise, and practically, equity as the 'opportunity to thrive' and equity as 'fairness' can be realised in South Africa.

Having noted the importance of identifying structural limitations at different levels of society, in chapter 5, these limitations are recognised, and this highlights what the capability approach allows us to engage with when it is combined with what equity means. For instance, structural limitations at the level of policy (including politics) show how undocumented migrant children are prevented from achieving their functionings through poor policy formulation, and that those policies do not align with the Constitution (The Constitution of the Republic of South Africa No. 108, 1996) which is shaped by a human rights perspective (see chapter 2, section 2.1 and chapter 6, section 6.1.7). The combination of equity from the top with capability allows for the development of this explanation. Another example is the structural limitations at the level of resource distribution and actions from various institutions which prevent equitable access to education. Such 'middle-level' limitations are usually because of policy gaps and ambiguities, and vertical forms of structural discrimination. A combination of equity from the middle with capabilities highlight how these limitations reduce the extent to which undocumented migrant children can achieve what the value. Also, an illustration of structural limitations that prevent

undocumented migrant children from exercising their agency highlights how equity from below is constrained. From these identified context-based limitations, policies can be made or revised and be fully implemented.

In chapter 6, the various levels of intervention further highlight a combination of efforts. This means that the concept of equity must be considered as a muti-perspectival concept which should be implemented using the capability approach as an approach (for thinking and doing) for ensuring that equitable access to education is achieved. This study's contribution thus lies in the use of this integrated approach at an epistemological level and in terms of what realistically would ensure the achievement of fundamental human rights for vulnerable groups of individuals including education, healthcare, and other human rights whose fulfilment are socially dependent. Combining the different levels of equity with the capability approach is effective for making clear the limiting structural factors, and the extent to which these factors reduce the extent of freedom for individuals to do what they value.

Drawing from the paragraphs above, this study contributes to existing knowledge on equity, education, migration, and affordances of the capability approach locally and internationally. On a local level, it builds on the work of other scholars who have researched the barriers of access to education for undocumented migrant children, and the capability approach in the South African context (see for instance, Blessed-Sayah, 2020; Crush & Tawodzera, 2011, 2013, 2014; Mkwananzi & Cin, 2020; Palmary, 2009). Although these studies do not all mention the capability approach, this current study, using the integrated approach, highlights the following:

> while the capability approach allows for the interrogation of structural limitations and individual capability, the three-levelled concept of equity sheds light on specific societal limitation. Hence, equitable access to education will be understood beyond only "barriers to access"; it would draw out a contextualised analysis of the nature of a society that continue to perpetuate inequities. In the South African context, the complexities, and ambiguities of the immigration policy, make it difficult for only the identification of structural limitations to provide solutions for the lack of equitable access to education for undocumented migrant children. Hence, there must be critical interrogation of the meaning of equity (beyond policy level) to engage with issues of equitable access to education. Equity cannot be isolated from the context in which it is considered. (Blessed-Sayah & Griffiths, 2023, p. 18)

This study demonstrates the need for critical engagement with treaties, policies, and the implementation of these policies, through detailed attention to the layered nature of structural limitations, as well as the explanation of what equity stands for. Such critical engagement is necessary considering the ongoing increase in migration across nations, regions, and continents. Significant is that beyond the case of educational rights, an integrated approach provides a platform to engage with other issues concerning human well-being, and international development. In addition, this study also contributes to the theorising of migration, education, and development; North and Chase (2023) note the need for such contributions. Through the use of an integrated approach, I have been able to highlight the need for further studies to theorise the intersection of these concepts in different contexts, for various groups of individuals. By extension, the study contributes to the need for clarity in defining concepts that relate to the interdisciplinary nature of migration and education.

7.4 Reflecting on the study's conceptual framework

For this study, I combined key concepts from the capability approach and Unterhalter's 3-fold explanation of equity to form the conceptual framework. To do this, I worked with ideas from Immanuel Kant and John Rawls to identify points at which each of these theorists' ideas merge with the capability approach and with equity in order to provide a rich theoretical underpinning for my study's framework. From here, the concepts from the capability approach used to from the framework are functionings, capability, and agency. As mentioned in chapter 2, these concepts form key ideas within the capability approach (see also Robeyns, 2017; Sen, 1999). On the other hand, equity from a three-fold perspective includes equity from the top, equity from the middle, and equity from below. Each of the levels of equity were linked to the different key concepts from the capability approach (see figure 2.1, chapter 2). These concepts were useful in providing an analysis of the data collected. The conceptual framework was implemented to provide a theoretical understanding of equitable access to education for undocumented migrant children. However, beyond this framework, I reflect on some additional concepts that future research can use to modify the framework (based on the interpretation of the findings in this current study).

One of the key explanations highlighted was the role individual and collective forms of agency can play in ensuring access to education in an equitable way for undocumented migrant children in South Africa. I found that while it was important for undocumented migrant children and their parents to work as individuals (because of their varying circumstances), it

was more important for them to work in groups with other undocumented migrant children and parents given the structural limitations they face in their given context. This is because, individual agency is largely restricted and constrained by the social, political, and economic opportunities available (see Sen, 1999). However, including collective agency allows for a combined effort (socially, politically, and economically) to bring about change in the circumstances of vulnerable groups. Significant is that collective agency as highlighted in chapter 6, does not seek to 'repress' the role of individuals or downplay the personal heterogeneity of their experiences. It can however allow those who are in vulnerable positions to achieve some degree of freedom. To restate the point, Evans (2002) mentions that collective agency works "for the less privileged [in] attaining development as freedom requires collective action. Organised collectivities… provide an arena for formulating shared values and preferences, and instruments for pursuing them, even in the face of powerful opposition" (p. 56). Mkwananzi and Cin's (2020) also support this role of collective agency for undocumented migrant children in the educational space is. Participants from my study also mentioned the need to work together to achieve equitable access to education (see chapter 7). Reflecting on the conceptual framework, I argue that it would be necessary to consider the two kinds of agency and how they can be implemented within different contexts. Figure 7.1 illustrates the inclusion of both individual and collective kinds of agency.

There is also a need to highlight the idea of human development in designing an approach for ensuring equitable access to education for undocumented migrant children. A conceptual framework that looks to determine issues on access to education needs to critically engage with the notion of human development and its role in describing how equitable access to education can be achieved. The significance of including a human development perspective has been noted by the United Nations Development Programme (UNDP). According to their report on measuring human development, the UNDP states that human development dimensions have been, "created to emphasise that *people and their capabilities* should be the *ultimate criteria for assessing the development of a country*, not economic growth alone" (United Nations Development Programmes [UNDP], 2022, para. 1, emphasis added). These dimensions include health, knowledge (education), and a decent standard of living. However, these dimensions need to be considered within specific contexts; hence, the addition of these dimensions to the existing conceptual framework which considers structural limitations at different levels of society. This means that it is important for the capability approach to be considered alongside human development. I state this because the role of education in human development, as well

as the relationship between human development and the capability approach have been previously indicated. For example, UNESCO (2005) notes that within discussions on freedom (as described in the capability approach), human development is expressed as expanding people's opportunities allows them to fully realise their potential. One of the forms of activity that can convert human potential into lifelong competencies is education. Acting for the next generation entails developing educational ideas and methods that can help people develop the competences they need to alter their lives and the lives of those around them by realising all of their potential (UNESCO, 2005). This means that one of the measures of a society that encourage human development is the extent to which education is, in the first instance, accessible to all, without exception. It can also help in considering more structural limitations that constrain access to education in specific contexts. In figure 7.1, human development has been included as a concept that future studies can engage with in relation to equitable access to education for vulnerable groups. The dimensions through which human development can be measured has also been included to further illustrate the relationship between the study's conceptual framework and the idea of human development.

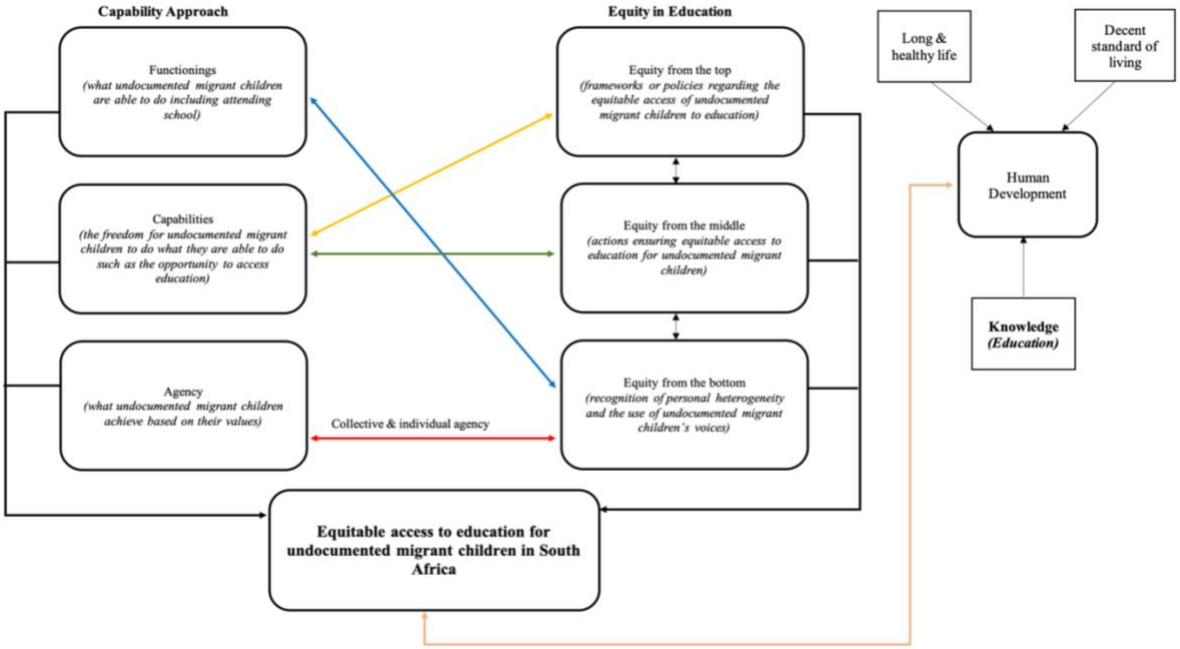


Figure 7.1: An updated conceptual framework (Source: the researcher, 2022)

Additionally, in reflecting on the three-fold perspective of equity, I had initially illustrated the link between equity and the capability approach using single-sided arrows (see figure 2.1). This

meant that there was a limit to the ways in which the various forms of equity were related to the concepts included from the capability approach. However, as I analysed and discussed the findings (see chapters 4, 5, and 6), it became clearer that the relationship between equity in education and the capability approach is more complex. Linear relationships no longer demonstrated the extent to which each form of equity intersected with the concepts from the capability approach (functionings, capabilities, and agency). For example, in the initial conceptual framework (chapter 2, figure 2.1), the yellow arrow is drawn from 'equity from the top' to 'capabilities' using a single-sided arrow. This suggests that the relationship between both concepts is linear; however, based on the analysis of the data, it became clear that this relationship is more complex so, the change reflects the feedback. Policies (including politics) determine the extent to which undocumented migrant children are able to achieve their functionings. But capabilities also have an impact on government decisions to revise or align policies and laws to ensure undocumented migrant children have improved opportunities to be educated. Another example is how the red arrow is drawn from 'equity from the bottom' (below) to 'functionings'. However, equity from below not only has an impact on the functionings that undocumented migrant children have but, that which is valued (being able to attend school) also has an impact on the extent to which these children will use their voices and participate in activities that highlight their agency (individually and as a collective). Also, the relationship between the different forms of equity was not readily demonstrated in the initial conceptual framework (see chapter 2, figure 2.1). However, the three forms of equity do not work in isolation (as discussed in chapter 2, sections 2.1 and 2.3.4), and do not necessarily share a linear relationship where equity from the top moves to equity from the middle and to equity from below. While data analysis and discussion were ongoing it became clear that each form of equity shares a complex relationship with the other and each one has an impact on the other, as figure 7.1 above now illustrates. Linking this to the concepts of the capability approach included in the framework, even as the forms of equity share a complex relationship, the concepts of capabilities, functionings, and agency also do not represent linear relationships. For instance, a valued functioning (being able to attend school) can only be achieved if there is freedom to do so (capability). This means that in this study, beyond recognising that the undocumented migrant children value being able to attend schools, it is important to recognise their extent of freedom in achieving this functioning. To demonstrate this, I have changed the arrows to show an interaction between the concepts and the way in which they intersect. This also highlights the notion that the singular forms of equity are not sufficient to fully explain what equity, and specifically, equity in education means.

7.5 Limitations of the study

A major limitation was the level of sensitivity of this study. The focus of the study involved dealing with undocumented migrant children and their parents. These participants had to share their experiences and, in some instance, recount past events. Also, these groups of participants are considered vulnerable because of their legal status in South Africa, and the age of the children. However, as discussed in chapter 3, care was taken in ensuring that these participants were not put in harm's way throughout data collection, and in the writing up of this thesis.

Also, there was a need to attain a level of trust with the undocumented migrant children in their familiar spaces. This included volunteering at the Project everyday there were classes and school programmes. Because of this, it might have been more beneficial to use an ethnographic research method for the study. Future studies should consider employing ethnographic approaches to gain a more in-depth experience and understanding of the lives of undocumented migrant children, as it relates to access to education and educational opportunities in South Africa.

In addition, as the sole researcher, I acknowledge that the study was limited to one study site within Johannesburg, and that the findings and outcomes cannot be generalised to other undocumented migrant children within South Africa. I also note the limitation in the sample size. However, the qualitative approach which was used for this study does not aim at having representative samples or producing generalisable findings (see Creswell, 2009, 2013). Rather, the intention is to generate an in-depth understanding of a phenomenon and explore 'transferability' to other contexts (see Scott & Morrison, 2006). It is therefore plausible for future studies to employ qualitative and quantitative methods to build on this current research.

Furthermore, as the primary instrument of data collection, I acknowledge that my philosophy and values may have resulted in bias in reporting the findings. However, using the phenomenological method of bracketing (described in chapter 3, section 3.1), I was able to move view concepts and phenomena as new, without presumptions. In addition, the findings were backed up by triangulating the findings from the three different groups of participants, and different methods of data collection. Besides this, regular meetings, and discussions with my supervisor during data collection and analysis, as well as while writing up my thesis, aided in overcoming this problem.

7.6 Recommendations

Based on the integrated discussion, my reflection on the study's conceptual framework, as well as the acknowledgment of the limitations of this current study, in this section I conclude by providing recommendations for policy, practice, and future research.

Policy recommendations

In recognising the importance of top-down approaches to ensuring equitable access to education for undocumented migrant children, the following policy recommendations are made:

- Policy revisions and alignment (such as a revision of the Immigration Act and the Admission Policy for Ordinary Public Schools) need to consider a human rights perspective in amending and updating existing policies on immigration and education which would in turn affect educational opportunities and outcomes for undocumented migrant children in the country. This recommendation is significant because there must be an alignment between the human rights principles that underpin the Constitution (The Constitution of the Republic of South Africa No. 108, 1996) and policies which give top-level meaning to equity.

- There needs to be greater political will to push forward policy implementation at the national and provincial levels. Such policy implementation includes adhering to court rulings like the Phakamisa Judgment which has an impact on the achievement of educational rights in South Africa. This would play a role in ensuring a change in the outlook toward migrants, and specifically undocumented migrant children as in the case of this study. There should also be deliberate and definite actions taken against individuals in authority who perpetuate discriminatory statements against foreign nationals.

- Policy implementation ensuring the appropriate distribution of educational resources needs to be reconsidered for undocumented migrant children. Such resources include funding for schools to cater for children who will be enrolled, teaching materials, infrastructure. These resources should be distributed as per the actual number of children in various schools regardless of their background or legal status. There needs to be a flow of information from various departments (including the department responsible for Population Statistics and the Department of Education) to ensure the resources are evenly distributed.

- Curriculum designs that include programmes that promote cultural diversity need to be considered at a national level. For instance, topics that focus on explaining discrimination in its various forms and what can be done to prevent discrimination and xenophobia can be included in the life orientation curriculum for schools. In addition, cultural diversity programmes can include learning about the history of other African countries in the History curriculum. There can also be topics that highlight rights and responsibilities in the school curriculum.

Recommendations for the Department of Basic Education

Because this study has noted the need for a combined and planned approach for ensuring equitable access to education for undocumented migrant children, there is a need for both top-down and bottom-up approaches to be employed simultaneously. To do this, I suggest the Department of Basic Education does the following:

- Ensure the appropriate circulation of recent policy amendments (like the Admission Policy for Ordinary Public Schools) and specify court rulings (such as the Phakamisa Judgment) that have implications for the way schools enrol and interact with undocumented migrant children. This circulation can be done through provincial departments of education as well as through social media and other media platforms. Doing so would ensure that all stakeholders (top-level department staff members, district officers, school principals, teachers, parents of the undocumented migrant children and the children themselves) become aware of all recent rulings as it relate to educational opportunities.

- Create platforms for the implementation, monitoring, and evaluation of policies on education. Also, ensure there is a chain of reporting for purposes of accountability in the implementation of policies at school and department levels.

Recommendations for Non-Government Organisations (NGOs)

In highlighting the role of agency in enabling a bottom-up approach to ensuring access to education for undocumented migrant children, the following can be done:

- More NGOs can establish similar programs to the Project that serve as an educational bridge for undocumented migrant children. These NGOs would also provide opportunities for these children and their parents to gain knowledge about what can be done to fulfil their educational right in South Africa.

- Considering that migration is ongoing, and education is rapidly shifting, NGOs can employ alternative measures to ensure access to education for undocumented migrant children. These alternatives measures can include, for example, the creation of online learning platforms that are linked to education regulatory bodies.

Future research:

- As noted in the study limitations, this study did not include multiple NGOs and provinces in South Africa. Future studies can employ a multiple case study approach to confirming the findings of this current study. This could also include more officials from the Department of Home Affairs. This would provide a more comprehensive understanding of the experiences of undocumented migrant children as it concerns their equitable access to education and help to determine contextualised strategies to tackle the problems identified.

- The Phakamisa Judgment has been highlighted as an opportunity for a top-down approach to ensuring equitable access to education for undocumented migrant children in South Africa. However, as noted in this study, there have been reports about the non-implementation of the rulings from the case. Future research can focus on understanding the impact of the ruling on the equitable chance for the identified group of children to access public schools. There should also be a focus on the educational outcomes of these children following the 2020 ruling.

- I have also argued the need for an integrated approach to ensuring equitable access to education for undocumented migrant children in South Africa. Research in the near future should thus explore the use of this approach to check for its usability in other similar contexts.

- Future studies should consider the use of participatory research methods to highlight the role of collective and individual agency in implementing equitable access to education as a basic capability in the South African context, for undocumented migrant children. This kind of research would provide a platform for more undocumented migrant children to participate in the study.

- Using a legal capability framework and a social justice theory, future studies can explore the role of NGOs in ensuring that undocumented migrant children and their parents are able to exercise their basic rights considering the nationalist view on migration in South Africa.

In conclusion, the need for an integrated approach to ensuring equitable access to education for undocumented migrant children in South Africa has been emphasised in this study. This approach draws on both top-down and bottom-up approaches with the significant role of policy implementation, monitoring, and evaluation as well as agency (in both individual and collective forms) highlighted. Significant is that this integrated approach (for thinking and doing) will be based on a thorough knowledge of the context.

The study has focussed on answering three research questions to develop the integrated approach to ensuring equitable access to education for the identified group of children in the South African context. This study is timeous because for South Africa to achieve the SDG 4 – Education – targets, equity in education for all groups of children must be clearly understood and platforms for ensuring this target is met must be implemented. To understand the significance of an integrated approach, the capability approach has been used in conjunction with the 3-fold explanation of equity to highlight the structural limitations that are part of the challenge of implementing equitable access to education in this study.

This chapter has thus highlighted the key findings of this study and the specific research objectives that these findings relate to. Also, an integrated discussion has been included which indicated themes that stand out and are related to the different specific objectives. Thereafter, I reflected on the study's conceptual framework, and included a section on the limitations of the study. Beyond the limitations, I have made recommendations for policy and practice, and future directions for research have been presented.

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Appendixes

Appendix A: Approval of Doctoral research proposal

UNIVERSITY OF THE WITWATERSRAND, JOHANNESBURG | FACULTY OF HUMANITIES

07 May 2021
Person Number: 1714302

Sarah Enaan-Maseph Blessed-Sayah
By Email: 1714302@students.wits.ac.za
Cc: Dr Dominic Griffiths

Results for the Doctor of Philosophy in Education

I am writing to inform you that the Graduate Studies Committee of the Faculty of Humanities, acting on behalf of the Senate has considered your proposal entitled ***"Children Moving Across Borders: Equitable Access to Education for Undocumented Migrants in South Africa"*** and recommended that you should be admitted to candidature subject to corrections to the satisfaction of the supervisor.

Corrections must be addressed to the satisfaction of the supervisor.

Kindly liaise with your supervisor regarding the contents of the reader's report.
The reader's reports have been emailed to your supervisor.

I confirm that **Dr Dominic Griffiths** has been appointed as your supervisors.

Your attention is drawn to the Senate's requirement that all higher degree candidates submit brief written reports on their progress to the Faculty Office once a year.

Please note that higher degree candidates are required to renew their registration in January each year.

Please keep us informed of any changes of address during the year.

Faith Herbert
Faith Herbert
Senior Faculty Officer
Faculty of Humanities
Education Campus
Tell: 011 717 3018

Private Bag 3, WITS 2050, South Africa | T +27 11 717 4007 | E help.humanities@wits.ac.za | www.wits.ac.za/humanities
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Appendix B: University of the Witwatersrand research ethics clearance

UNIVERSITY OF THE WITWATERSRAND JOHANNESBURG

Research Office

HUMAN RESEARCH ETHICS COMMITTEE (NON-MEDICAL)
R14/49 Blessed-Sayah

CLEARANCE CERTIFICATE	**PROTOCOL NUMBER: H21/05/09**
PROJECT TITLE	Children Moving Across Borders: Equitable Access to Education for Undocumented Migrants in South Africa
INVESTIGATOR(S)	Miss S Blessed-Sayah
SCHOOL/DEPARTMENT	Education/
DATE CONSIDERED	21 May 2021
DECISION OF THE COMMITTEE	Approved Permission letter required before data collection can commence Risk Level: Medium
EXPIRY DATE	03 June 2024

DATE 04 June 2021 **CHAIRPERSON** _____
(Professor J Knight)

cc: Supervisor : Professor D Griffiths

DECLARATION OF INVESTIGATOR(S)

To be completed in duplicate and **ONE COPY** returned to the Secretary at Room 10004, 10th Floor, Senate House, University. Unreported changes to the application may invalidate the clearance given by the HREC (Non-Medical)

I/We fully understand the conditions under which I am/we are authorized to carry out the abovementioned research and I/we guarantee to ensure compliance with these conditions. Should any departure to be contemplated from the research I/we undertake to submit an amendment of the protocol to the Committee. **I agree to completion report. For Minimal and Low studies, this is due annually on 31 December. For Medium and s is due twice annually on 30 June and 31 December.**

_____ 05 / 06 / 2021
Signature Date

PLEASE QUOTE THE PROTOCOL NUMBER ON ALL ENQUIRIES

Appendix C: Gauteng Department of Education (GDE) ethics clearance certificate

GAUTENG PROVINCE
Department: Education
REPUBLIC OF SOUTH AFRICA

8/4/4/1/2

GDE RESEARCH APPROVAL LETTER

Date:	**25 May 2021**
Validity of Research Approval:	**08 February 2021– 30 September 2021** **2021/92**
Name of Researcher:	**Blessed-Sayah, SE**
Address of Researcher:	**Vistaero Apartments**
	12 Mitchell Street
	Berea, Johnanesburg
Telephone Number:	**0640533399**
Email address:	**1714302@students.wits.ac.za / sarah.blessed-sayah@z.ac.za**
Research Topic:	**Children Moving Across Borders: Equitable Acess to Education for Undocumented Migrant Children in South Africa**
Type of qualification	**Doctor of Philosophy**
Number and type of schools:	**Districts and / or Head Office**
District/s/HO	**Districts and / or Head Office**

Re: Approval in Respect of Request to Conduct Research

This letter serves to indicate that approval is hereby granted to the above-mentioned researcher to proceed with research in respect of the study indicated above. The onus rests with the researcher to negotiate appropriate and relevant time schedules with the school/s and/or offices involved to conduct the research. A separate copy of this letter must be presented to both the School (both Principal and SGB) and the District/Head Office Senior Manager confirming that permission has been granted for the research to be conducted.

25/05/2021

The following conditions apply to GDE research. The researcher may proceed with the above study subject to the conditions listed below being met. Approval may be withdrawn should any of the conditions listed below be flouted:

Making education a societal priority

Office of the Director: Education Research and Knowledge Management
7th Floor, 17 Simmonds Street, Johannesburg, 2001
Tel: (011) 355 0488
Email: Faith.Tshabalala@gauteng.gov.za
Website: www.education.gpg.gov.za

Appendix D: Permission letter for the Bridge Option Project

Wits School of Education,
University of the Witwatersrand
27 St Andrews Road, Parktown
2193 Johannesburg

The Principal,
Bridge Option Project
Johannesburg
South Africa

Monday 1 February 2021

Dear Sir/Madam,

Re: Permission to Conduct Research at the Project

My name is Sarah Blessed-Sayah. I am studying for a Doctor of Philosophy in the Wits School of Education ate the University of the Witwatersrand, Johannesburg, South Africa. I am seeking permission to do research at the Project Institution.

I am conducting research on equitable access to education for undocumented migrant children (UMCs) in Johannesburg, South Africa. The study aims to develop an approach to explaining access to education for undocumented migrant children from an equity viewpoint in South Africa. To do this, the study will:

- Explore what undocumented migrant children and their parents, NGOs and government officials who deal with migrant children understand as the right or access to education, in relation to equity in South Africa.
- Understand the impact (opportunities and problems) of migration on undocumented migrant children in relation to equitable access to education in South Africa.
- Establish strategies that can be considered to remedy the impact of migration on the undocumented migrant child's equitable access to education in South Africa.

The importance of this study stems from the timely need to ensure that all children within South Africa, regardless of their legal status, are allowed equitable access to education. I have chosen your organisation to take part in this research project because your organisation is a well-established institution that has over the years assisted in bridging the education gap for hundreds of refugees and migrant children who are unable to access state schooling in Johannesburg, South Africa.

The research will entail collecting data from undocumented migrant children; their parents; staff members from within your institution; and Gauteng Department of Education officials who deal with these group of children. From your institution, I will be collecting data from the UMCs and their parents using focus group discussions. I will also collect data from staff members working at the Project using individual semi-structured interviews. I thus request to permission to get access to these groups within your institution.

If they agree, they will be asked to take part in focus group discussions and individual interviews respectively. For the UMCs, the focus group discussions will take about 45 minutes, while for their parents, the discussions will take about 2 hours. The staff members who will be individually interviewed will need to set aside 1 hour for the session. The discussions and interviews will take place on your campus premises before work hours (because the children attend school in the afternoon). All discussions and interviews will be audio-recorded.

Participants will be asked to give their written or verbal consent before the research begins. For the UMCs, their parents will be asked for consent for their children to participate and the children will be asked to give assent to take part in the study. Their responses will be treated confidentially, and identities (their names and the name of the organisation) will be anonymous unless otherwise expressly indicated. Individual privacy will be maintained in all published and written data resulting from the study.

The results will be communicated via academic journals, book chapters, a dissertation, as well as at academic conferences.

The research participants will not be advantaged or disadvantaged in any way. They will be reassured that they can withdraw their permission at any time during this project without any penalty. The only foreseeable risks in participating in this study might be that some of the UMCs and their parents might feel traumatized should they remember certain experiences they have encountered while answering some questions asked. Hence, I also request for the availability of the institution's counsellor and or psychologist to be available for such cases. The participants will not be paid for this study.

All research data will be destroyed after a 5-year period.

I therefore request permission in writing to conduct my research at your organisation. The permission letter should be on your organisation's headed paper, signed and dated, and specifically referring to myself by name and the title of my study.

Please let me know if you require any further information. I look forward to your response as soon as is convenient.

Yours sincerely,
Sarah Blessed-Sayah

Appendix E: Information sheet for undocumented migrant children



Title of Research Project: Equal Access to Education for All Children Without Permits in South Africa
Researcher's Name: Sarah Blessed-Sayah
Researcher's Contact Number:

What is Research? Research is something we use to get new information about the way people and things work. We use research to learn about the things that affect children's lives at home and in school. We like to do this to make the world a better place.

What is this research project all about?
This research is about equal access to school for all the children in Johannesburg, South Africa that do not have complete paperwork. The project wants to find strategies that can help children from other countries to be able to attend school here in South Africa without any troubles.

Why have I been invited to take part in this research project?
You have invited to take part in this research because I think you have a lot of things to tell me about what we can do to make sure that children can all attend school equally in Johannesburg, South Africa. Also, I know you will be able to tell me what you think about your right to go to school in South Africa.

Who is doing the research?
My name is Sarah, and I am the one doing the research. I am a student at Wits University here in Johannesburg. I am doing my PhD study. I am doing this research because I want to find out what we can do to make sure children without paperwork have the equal chance to attend school in South Africa.

What will happen to me in this study?
I will be asking you and some of your friends what they think about being able to attend school in South Africa. You will be free to answer questions I ask. But, if you don't feel like answering any question that I ask, you don't have to. You will be talking to me with the rest of your friends for some time (45 minutes). You will let me know if I can write down and record whatever you tell me. I will ask you the questions at the Project classroom on a day we all agree on.

Can anything bad happen to me?
If you decide to take part in this study, I will ask you some questions that you might feel worried about like how you feel about your stay in South Africa. If you get worried, I will ask an adult friend (counsellor) to talk to you and you can decide if you don't want to continue with the rest of us.

Can anything good happen to me?
I will not give you anything for participating in this project.

Will anyone know I am in the study?
I will not tell anyone that you are part of the study. I will also not write your real name in my research papers; only play/fake names will be used. I will also not write where you live or like to play in my

papers. We will seat in a close and quiet place to discuss with our other friends so that no one knows that you are answering questions for my research.

Who can I talk to about the study?
If you have any questions about or problems because of the study, you can talk to the people listed below:
Child Counsellor/ Psychologist
The Project Centre Co-ordinator

What if I do not want to do this?
If you don't want to be a part of the study even if your parent(s) agree that you can take part, that's okay. You do not need to be worried. You can tell me that you do not want to be part of the study and you will NOT get in trouble. Also, if you decide to take part in the study, and later you change your mind, you can ask me to STOP asking you questions.

Who can I contact at the University for any complain about this study?
If you have any concerns about the ethical procedures of this study, you are welcome to contact the University Human Research Ethics Committee (Non-Medical), telephone +27(0) 11 717 1408, email hrecnon-medical@wits.ac.za

Yours sincerely,
Sarah Blessed-Sayah

Appendix F: Consent form from parents for undocumented migrant children

I _____, Parent/Guardian of _____ (name of learner), who is a learner at The Project in Johannesburg. Having understood the following aspects of the study:

1. That participation is completely voluntary.
2. That my child/ward may withdraw at any time with any reasons and without any adverse consequences to his/her schoolwork or stay at The Project.
3. Participation or non-participation will not influence any aspect of my child/ward's schoolwork or stay at The Project.
4. Results obtained in the study will be strictly confidential and not used for promotion purposes.

Hereby grant permission for my child/ward to be a participant in this study.

_____ _____

Signature of Parent/Guardian Date

Appendix G: Assent form for undocumented migrant children

Do you understand this research study?	YES	NO
Do you want to take part in this study?	YES	NO
Has the researcher answered all your questions?	YES	NO

Signature: _____ Date: _____

Appendix H: Focus Group Discussion (FGD) guide for undocumented migrant children



Before proceeding with the interview, the researcher must read all the basic Covid-19 protocols.

Focus Group Demographic Information for Undocumented Migrant Minors

Tell me about yourself

How old are you? _____

What class are you in? _____

What is the name of your country? _____

Where do you live? _____

How do you feel today? (Put a tick on across how you feel)  

I am happy that you have answered the questions. Well-done!

Introduction:

My name is Sarah, and I would like to ask you some questions about what you think about going to school in South Africa. I am happy that we are going to talk to each other for some time. If you do not feel happy about any question I ask, you don't have to answer. You can just tell me, "No, I don't want to tell you". I'll not be cross with you.

Whatever you tell me here, I'll not tell any other person including your name or any other thing.

Ground Rules:

In order for all of us to continue. Being happy during our talk, we have to do the following

Whatever you want to say, you can say.

Don't tell your friend that he or she is wrong.

Try not to talk to the person sitting beside you when another person is talking.

Does anyone have any question for me?

Okay, let's start.

I am going to record everything we will talk about. Can I? If yes, you can smile or raise your hand. If no, you can leave your hand down.

Warm Up Questions

Can everyone tell me what makes them happy? Let's take turns.

What are rights?

Can you tell us some examples of rights?

Guiding Questions

Perception of Right/Access to Education in Relation to Equity

- → What do you think the word "equal" means?
- → Is it fair/okay to ask people to treat everyone the same? If yes, why? If no, why?
- → When you think about school, would you say everyone must be allowed in class no matter where they come from? Why?
- → What would you say about the right to go to school? (Can I ask the government to allow all of us go to school, Why?).

Impact of Migration to South Africa on undocumented migrant children's Equitable Access to Education

- → Have you been enjoying your stay in South Africa? What things have made you enjoy or not enjoy your stay here?
- → Have you had any nice thing happen to you since you came to South Africa? What are some of them?
- → How about not so nice things? (Encourage any one of the children to share: You can start with yourself)
- → Do you think these nice and not so nice things that have happened make you feel sad about going to school? Why?
- → Do these things also make you feel sad about getting a chance to be at school?

Strategies to Address the Impact of Migration on undocumented migrant children's Chance to Equitable Access to Education in South Africa?

- → What do you think can be done to reduce the not so nice things that happen to you here in South Africa?
- → Can your friends living around you make you feel better about going to school in South Africa?
- → How do you make yourself feel better about attending school in South Africa?
- → What else can be done to help you attend school?

Concluding Question:

What one thing would you like to tell me about anything we have talked about today?

Thank you for allowing me to talk to you today.

Appendix I: Information sheet for parents

Good day,

My name is Sarah Blessed-Sayah, and I am a PhD student in Education at the University of the Witwatersrand, Johannesburg, South Africa. As part of my studies, I have to undertake a research project, and I am investigating equitable access to education for undocumented migrant children in Johannesburg, South Africa under the supervision of Dr Dominic Griffiths. The aim of this research project is to develop an approach to explaining access to education for undocumented migrant children from an equity viewpoint in South Africa.

As part of this project, I would like to invite you to take part in an individual interview. This activity will involve answering questions about an equitable access to education in a session with me. The discussion will take place in your home and will take around 45 minutes. With your permission, I would also like to record the discussions using an audio-recorder (a digital audio-recording device).

There will be no personal costs to you if you participate in this project, you will not receive any direct benefits from participation but there are no disadvantages or penalties if you do not choose to participate or if you withdraw from the study. You may withdraw at any time or not answer any question if you do not want to. The interview will be completely confidential and anonymous as I will not be asking for your name or any identifying information, and the information you give to me will be held securely and not disclosed to anyone else share your personal or any other identifying details with anyone else. Also, whatever information discussed during the session will be held securely on my part. I will be using a pseudonym (false name) to represent your participation in my final research report, academic journal papers, and book chapter. If you experience any distress or discomfort at any point in this process, we can stop the interview or resume another time. If you need some support or counselling services following the interview, the institution's counsellor (specifically The Project counsellor) will be available to talk to you.

If you have any questions during or afterwards about this research, feel free to contact me on the details listed below. This study will be written up as a research report which will be available online through the university library website. If you wish to receive a summary of this report, I will be happy to send it to you. The data collected from this research project will be stored in a password-locked computer owned by the researcher and will be kept for 5 years. If you have any concerns or complaints regarding the ethical procedures of this study, you are welcome to contact the University Human Research Ethics Committee (Non-Medical), telephone +27(0) 11 717 1408, email hrecnon-medical@wits.ac.za

Yours sincerely,
Sarah Blessed-Sayah

Appendix J: Consent form for parents

I, ……..., agree to participate in this research project. The research has been explained to me and I understand what my participation will involve. I agree to the following:

(Please circle the relevant options below).

I agree that my participation will remain anonymous	YES	NO
I agree that the researcher may use anonymous quotations in her research report	YES	NO
I agree that the researcher may use anonymous quotations in her academic journal papers, book chapters, and commentaries	YES	NO
I agree that the focus group discussion may be audio recorded	YES	NO

…… (Parent's Signature)
…… (Parent's Name)
…… (Date)

…… (Researcher's Signature)
…… (Researcher's Name)
…… (Date)

Appendix K: Semi-structured interview guide for parents participants

Demographic details questionnaire for each parent
Before proceeding with the interview, the researcher must read all the basic Covid-19 protocols. However, should this be an online interview session (via WhatsApp), the researcher can skip reading the Covid-19 rules.

Please answer the following questions in the spaces provided, circle or tick the most appropriate options.

1. Gender: Male ☐ Female ☐
2. How long have you been in South Africa? _____.
3. What country are you originally from? _____.
4. How many children do you have? _____.
5. How many children are here with you in South Africa? _____.
6. Where do you currently live? _____.
7. What languages do you speak? _____.

Thank you for taking the time to complete the questionnaire.

Introduction

Thank you for allowing me to be in your home and volunteering to participate in this interview. Your ideas on the topic we are going to discuss are important and I appreciate your time.

Guiding Questions

Perception of Right/Access to Education in Relation to Equity

- → What do you understand by the word "Equity"?
- → What do you think is meant by all children have the right to access education?
- → Do you think children who do not have paperwork should be allowed to attend school in South Africa? Why?
- → What do you think about the importance of attending school for children without the complete/appropriate paperwork in South Africa?

Impact of Migration to South Africa on undocumented migrant children's Equitable Access to Education

- → What are some problems you have faced by migrating to South Africa?
- → What about your children? What problems have you faced with them?
- → What problems are you facing when you have to enrol your child/ren in a school in South Africa without the complete paperwork?
- → Do you think not having complete paperwork affects their chance of access education like other children? Why?
- → Are there any limited chances of your child/ren getting enrolled in schools without complete paperwork? How do you go around it?
- → Does the fact that children don't have complete paperwork affect their chances of learning at school?
- → How do you feel about how you are treated as a migrant in South Africa?

- → How does your child get treated because of being in South Africa without the complete paperwork? At school? In the community?
- → What problems about being enrolled in school do you face especially from the government? How about from the department of education?

Strategies to Address the Impact of Migration on undocumented migrant children's Chance to Equitable Access to Education in South Africa?

- → Based on the impact of migration you have mentioned, what can be done to address this problem? (This should be in stages: Individual Level; Community Level; and Systems Level [government policies, department of education, structures within SA).
- → What will these strategies you have mentioned do to help your child access education like other children in South Africa?
- → How do you think undocumented children in South Africa can be given a chance to access education? What can be done to make equitable access possible for these children?

Concluding Question:
From all what we have discussed today, what would you say are the most important issues that you would like to highlight?

Appendix L: Information sheet for professionals

Good day,

My name is Sarah Blessed-Sayah, and I am a PhD student in Education at the University of the Witwatersrand, Johannesburg, South Africa. As part of my studies, I have to undertake a research project, and I am investigating equitable access to education for undocumented migrant children in Johannesburg, South Africa under the supervision of Dr Dominic Griffiths. The aim of this research project is to develop an approach to explaining access to education for undocumented migrant children from an equity viewpoint in South Africa.

As part of this project, I would like to invite you to take part in an individual interview session. This activity will involve answering questions about an equitable access to education for undocumented migrant children. The discussion will take place at your office and will take about 45-60 minutes. With your permission, I would also like to record the interview using an audio-recorder (a digital audio-recording device).

There will be no personal costs to you if you participate in this project, you will not receive any direct benefits from participation but there are no disadvantages or penalties if you do not choose to participate or if you withdraw from the study. You may withdraw at any time or not answer any question if you do not want to. The interview will be completely confidential and anonymous as I will not be asking for your name or any identifying information, and the information you give to me will be held securely and not disclosed to anyone else share your personal or any other identifying details with anyone else. Also, whatever information discussed during the session will be held securely on my part. I will be using a pseudonym (false name) to represent your participation in my final research report, academic journal papers, and book chapter. If you experience any distress or discomfort at any point in this process, we can stop the interview or resume another time.

If you have any questions during or afterwards about this research, feel free to contact me on the details listed below. This study will be written up as a research report which will be available online through the university library website. If you wish to receive a summary of this report, I will be happy to send it to you. The data collected from this research project will be stored in a password-locked computer owned by the researcher and will be kept for 5 years. If you have any concerns or complaints regarding the ethical procedures of this study, you are welcome to contact the University Human Research Ethics Committee (Non-Medical), telephone +27(0) 11 717 1408, email hrecnon-medical@wits.ac.za

Yours sincerely,
Sarah Blessed-Sayah

Appendix M: Consent form for professionals

I, ……., agree to participate in this research project. The research has been explained to me and I understand what my participation will involve. I agree to the following:

(Please circle the relevant options below).

I agree that my participation will remain anonymous	YES	NO
I agree that the researcher may use anonymous quotations in her research report	YES	NO
I agree that the researcher may use anonymous quotations in her academic journal papers, book chapters, and commentaries	YES	NO
I agree that the interview may be audio recorded	YES	NO

…… (Participant's Signature)
…… (Participant's Name)
…… (Date)

…… (Researcher's Signature)
…… (Researcher's Name)
…… (Date)

Appendix N: Semi-structured interview guide for professional participants

Before proceeding with the interview, the researcher must read all the basic Covid-19 protocols. However, should this be an online interview session (via WhatsApp), the researcher can skip reading the Covid-19 rules.

Part One: Getting to know the interviewee
Questions:

- → What is your country of origin? (If not South Africa, then ask how long the person has been in the Republic).
- → How long have you worked at the Project/ GDE/ SAHRC?
- → What position do you hold at the Project/ GDE/ SAHRC? (The question can also be framed as, "what division do you work in? How long have you been in the division?)
- → How long have you had to work with undocumented migrant children within the Republic?
- → Do you always look forward to working with these group of children?

Part Two: Understanding the interviewee's perception of access to education in relation to equity.
Questions:

- → What do you understand by the word "Equity"? (Various responses can be further probed to provide a deeper understanding of the concept).
- → What do you think is meant by all children have the right to access education?
- → Do you think children who do not have paperwork should be allowed to attend school in South Africa? Why?
- → What do you think about the importance of attending school for children without the complete/appropriate paperwork in South Africa?

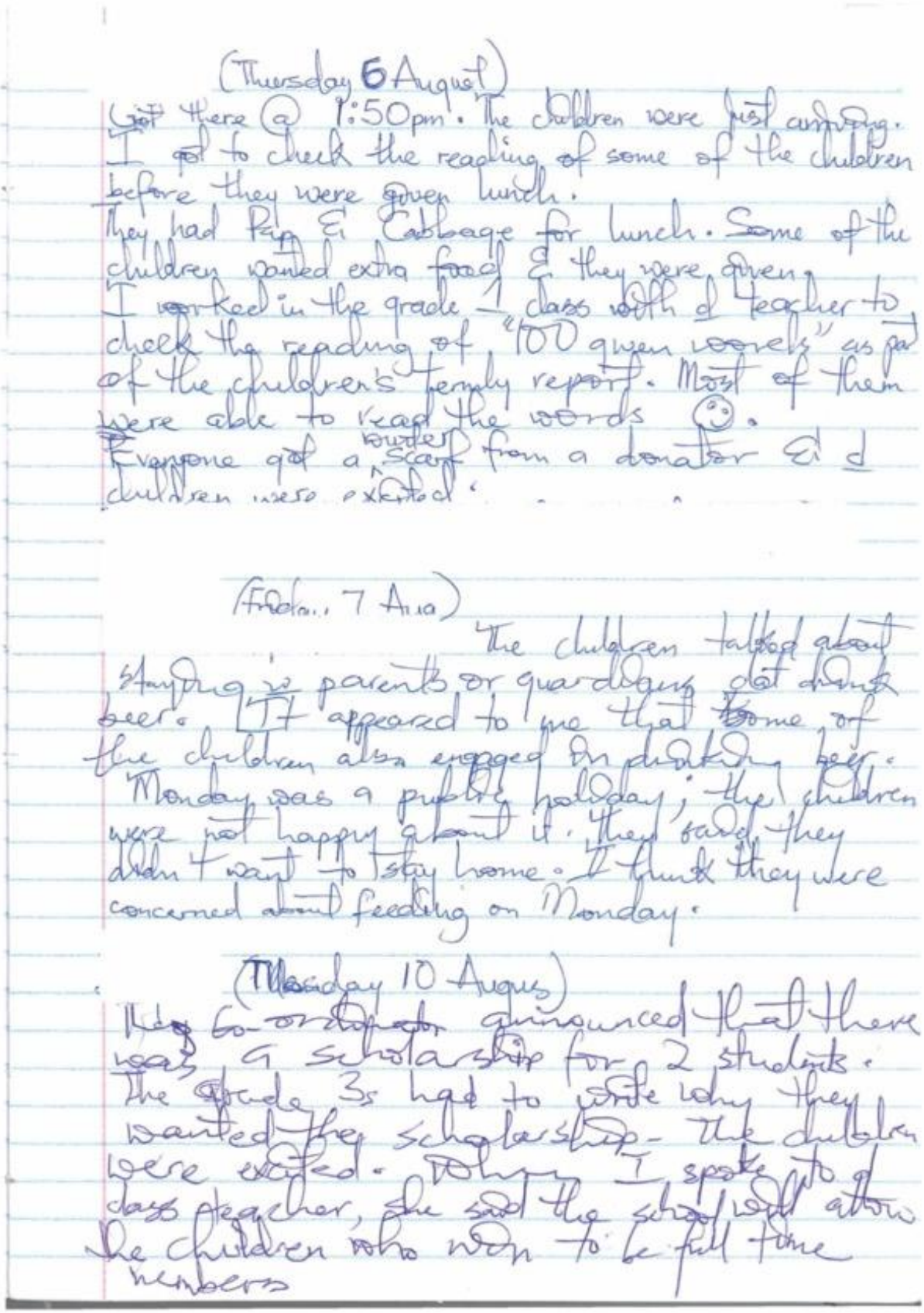
Part Three: Getting a hang of the interviewee's understanding of the impact of migration to SA on undocumented migrant children's Equitable Access to Education
Questions:

- → Would you say migrating to South Africa has impacted the undocumented migrant child's chance of accessing education equitably? If yes, why; If no, why?
- → What are some problems that these undocumented migrant children have to deal with? (at the community, individual, and system levels).
- → What are some opportunities that undocumented migrant children have in South Africa?
- → Are there any limited chances of getting enrolled in schools as an undocumented migrant child within South Africa? How do these children go past the limitations identified?

Part Four: Identifying Strategies to ensure the Equitable Access of Undocumented Migrant children to education.
Questions:

- → What approach can be used to ensure that these group of children have equitable access to education within South Africa?
- → What system-based strategies can be implemented to ensure undocumented migrant children have equal access to education in South Africa?
- → What community-based strategies can be designed and implemented to ensure undocumented migrant children have equitable access to education in South Africa?
- → What can be done at an individual level to ensure undocumented migrant children have equitable access to education in South Africa?
- → Would these identified strategies be of any use in ensuring equitable access to education? If yes, why? if no, why?

Appendix O: A few copied pages from my field notebook



(Thursday 6 August)

Got there @ 1:50pm. The children were just arriving. I got to check the reading of some of the children before they were given lunch.

They had Pap & Cabbage for lunch. Some of the children wanted extra food & they were given.

I worked in the grade 1 class with a teacher to check the reading of "100 given words" as par of the children's termly report. Most of them were able to read the words ☺.

Everyone got a scarf from a donator & children were excited.

(Friday 7 Aug)

The children talked about staying w parents or guardians dat drink beer. It appeared to me that some of the children also engaged on drinking beer.

Monday was a public holiday; the children were not happy about it. They said they didn't want to stay home. I think they were concerned about feeding on Monday.

(Monday 10 Augus)

The co-ordinator announced that there was a scholarship for 2 students. The grade 3s had to write why they wanted the scholarship. The children were excited. Later I spoke to a class teacher, she said the school will allow the children who won to be full time members

School resumed Wednesday 8 September 202
The children were so excited. They wanted
were bread and milk. I stayed in grade
2 and assisted w marking the children's
"Weekend News". They wrote about how they
spent their holidays. Some seemed to have
forgotten how to write & spell some words.
We closed @ 5:10pm. Some children didn't
show up because they missed d school bus pick-u
time.

Friday, 10 September 2021. The grade one teacher
was absent and I had to stay in her class.
The children did L Skills Cit was about Spring.
They coloured, cut, and pasted spring-based
picture drawings. They seemed excited. I
had to ensure they all completed tasks togeth
because there were some who had stow pac
came to take the
Maths subject. They learned Addition usin
building blocks. I assisted 2 children
who couldn't keep up w the rest of
d children. We closed @ 5:30pm.

Wednesday 15 September 2021
11:35am
Grade 3's had sports from 12-1pm.
They were excited.

Tuesday 12 October 2021
→ Workshop by ... w Human Rights Lawyer for Parents about the DBE's new gazette (kids must be allowed w/out documen tation) & told them if still not allowed, go to DBE & then HR Lawyer.

⇒ Grade 3 had ... teach them Arts. They were asked to ... their Country of Origin flags & write 5 facts about it.