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# Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa

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**School of education**

# Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa

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A research report submitted to the School of Education

Faculty of Humanities in partial fulfilment of the requirement for the degree of

Doctor of philosophy in Education

**Supervisor**

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**29 February 2024**

**DECLARATION**

I **Vimbayi Matanhire** declare that this research report is my own unaided work except as stated in the acknowledgement. No other person's work has been used without due acknowledgment in the main text of the report. It is submitted in partial fulfilment of the requirements of the degree of Doctor of Philosophy in Education at the University of Witwatersrand, Johannesburg. It has not been submitted before for any degree or examinationat any other universities.

Signature of candidate Date: 29 February 2024



Vimbayi Matanhire

**ABSTRACT**

Children without documentation are excluded from formal school due to contestations and contradictions between the South African Constitution and the Admission Policy for Ordinary Schools and the practices of the Department of Home Affairs alongside legislative gaps and inconsistencies in South African schools regarding the admission of children without legal identification documents. This study investigated the plight of children without legal documents in relation to inclusive education in South Africa using a case study of a non-governmental organisation named Cosmo Oasis.

I argue that a human rights approach to inclusive education within the social model paradigm is essential for this study because education is in itself a human right. I further develop a framework of inclusive education for undocumented children and outline the intricacies surrounding the origins and debates around the universality and enjoyment of human rights specifically by children without documentation.

This study was a qualitative study that used mixed methods and it had the characteristics of a case study. Semi-structured audio-recorded interviews and questionnaires with open and closed questions were used as data collection tools. Data was analysed using qualitative data analysis methods by organising and sorting data into major themes and presented in the form of figures, tables, excerpts and descriptions.

The findings of the study showed that, the South African education system was not inclusive to children without legal documents. These children are not integrated into the mainstream leading to varied socio-economic and political implications on the children without documents, their parents and on the South African education system. Contradictions between policies, the legal aspect, the Home Affairs Department, revealed the contestation between citizenship rights and problems with the social contract which continues to create an impasse between the realisation of rights by non-citizens and the rigidness of the social contract.

**Key Terms**: Inclusive education, children without documentation, human rights, social contract

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**Abbreviations and acronyms**

| | |
|---|---|
| AIDS | Acquired Immunodeficiency Syndrome |
| ACDP | African Christian Democratic Party |
| ACRWC | African Charter on the Rights and Welfare of the Child |
| ANC | African National Congress |
| CERT | Centre for Education Rights and Transformation |
| CRPD | Convention on the Rights of Persons with Disabilities |
| CS | Community Survey |
| CRC | Convention on the Rights of the Child |
| DoE | Department of Education |
| DRC | Democratic Republic of the Congo |
| EFA | Education for All MDGs |
| EASE | Exceptional Student Education |
| GDE | Gauteng Department of Education |
| HIV | Human immunodeficiency virus |
| ID | Identity document |
| KZN | KwaZulu-Natal |
| MDGs | Millennium Development Goals |
| NBT | National Benchmark Test |
| NCLB | No Child Left Behind |
| OECD | Organisation for Economic Cooperation and Development |
| OHCHR | Office of the High Commissioner for Human Rights |
| NGO | Non-governmental Organisation |

PRUs Pupil Referral Units

RBX Roll Back Xenophobia

RDP Rural Development Programme

SADC Southern African Development Community

SAMP Southern African Migration Project

SASA South African Schools Act

SBST School Based Support Team

SDGs Sustainable Development Goals (SDGs)

SEN Special Educational Needs

SEND Special Educational Needs and Disabilities

SGB School Governing Bodies

SMS Socrates Middle School

UDHR Universal Declaration of Human Rights

UK United Kingdom

UN United Nations

UNESCCO United Nations Educational Scientific and Cultural Organisation

UNCRC United Nations Convention of the Rights of the Child

UNDP United Nations Development Programme UNESCCO United Nations Educational Scientific and Cultural Organisation

UNFPA United Nations Population Fund

UPIAS Union of the Physically Impaired Against Segregation

USA United States of America

# CHAPTER 1: INTRODUCTION

This study seeks to investigate the plight of children without legal identification documents in light of inclusive education in South Africa. In this chapter I outline the background to the research problem, research questions, rationale and aim of my study. The second chapter focuses on the conceptual framework focusing on human rights and education, and the third chapter covers children's rights, human rights and inclusive education. The theoretical framework, inclusive education, is discussed in chapter four. Chapter five covers the research methodology whilst chapter six consists of my findings. Chapter seven constitutes the data analysis chapter and the eighth and final chapter provides the conclusions and recommendations.

This study is focused on inclusive education, human rights and citizenship rights with a focus on the right to education, which every individual is entitled to as per the Universal Declaration of Human Rights (UDHR) (United Nations, 1948) and the Constitution of the Republic of South Africa (1996). The confluence of human rights and inclusive education is based on the premise that human rights form the basis of education, and that inclusive education fundamentally promotes human rights. Therefore, it is crucial that inclusive education and human rights are considered simultaneously because they are interdependent and complement each other. Furthermore, when human rights are not safeguarded in inclusive education it leads not only to the violation of education as a human right, but also to inclusive education becoming exclusionary as some children are left out of mainstream education. With regard to undocumented children, such exclusionary effects are mostly evident in the admission requirements for children without legal identification documentation. There is violation of the right to education on the onset of the online application process that does not allow children without the required legal identification documentation to proceed with the online school application process. I will outline the admission requirements of the Department of Basic Education and the stance of the South African Department of Home Affairs (2002) with regards to children without legal documentation in this chapter as well.

## 1.1 Background to the problem

Globalisation has reduced the 21st century world into a global village characterised by international flow and exchange of goods, capital, labour and services (Yazali, 2003). In the process of globalisation, people have migrated either legally or illegally from their native lands to settle in various destinations. Children have been born to both legal and illegal immigrants

in their host countries, resulting in several dynamics for both the host nations and the immigrants. Additionally, Bauman and Mazzeo (2012) raised thought-provoking concerns in societies where the universal human model lacks a clear picture of the future regarding the function of education and in a world where young people face profound uncertainty about their future regarding long-term job in the light of increased population movements and questions the role of educators in these concerns. These concerns emphasise the social justice and solidarity themes that helped shaped this study.

The focus in this study is to consider the rights of immigrants in their various destinations with special reference to children without legal documentation and the right to education.

The Universal Declaration of Human Rights provides for, but does not guarantee, safe and healthy relationships among people and between people and governments. The Universal Declaration of Human Rights has helped many people realize independence and prevent potential human rights violations. This has been achieved through its promises of economic, social, political and civic rights. According to the UDHR, rights are universal, inalienable entitlements for all people irrespective of time, place, race or ethnicity. Although the UDHR describes rights as universal, the universality of rights has been challenged by some scholars as shall be discussed in Chapter 2 of this thesis. Of interest in the context of this research, is numbers i and iii contained in Article 6 of the UDHR which state that:

i) Everybody has the right to education

iii) Parents have a prior right to choose the kind of education that should be given to their children (UDHR, 1948, Article 6, p.7).

This article stipulates that everyone is entitled to receive education, and that education is owed to everyone as informed by some legal or social conventions as well. Additionally, the article states that parents have a role to play in selecting the kind of education received by their children. The following questions then arise: (a) Are all people getting access to education? and (b) Do parents really have a role to play in the kind of education received by their children?

In addition to the UDHR, several policies reiterate the right to education for all suggesting that all children regardless of defining characteristics should access education. According to Reiser, (2008), Education for All (EFA) and the Sustainable Development Goals (SDGs) are key commitments to achieving universal primary education for all children. EFA was a global campaign for education espoused by the United Nations Educational Scientific and Cultural

Organization (UNESCO). It was adopted at Jomtien, Thailand by 150 states aimed at delivering the right to education. The goals of EFA were committed to accessible, acceptable and adaptable education for all regardless of circumstances. Further commitment towards the right to education was demonstrated through the SDGs which are broad yet interdependent goals aimed at improving social and economic development in the world. Goal number 4 of the SDGs, which focuses on achieving quality education, will be discussed later. Moreover, the Constitution of the Republic of South Africa (1996) states that, "everyone has the right to basic education including adult basic education" (Constitution of the Republic of South Africa, 1996, p.1257). Also, an international recognition of the uniqueness of each child and the fundamental right to education that resulted in the Salamanca Statement and Framework for Action (UNESCO, 1994) strongly focuses on inclusion and participation as essential to human dignity. Additionally, Education White Paper 6 launched in South Africa in July 2001 foregrounds the right to equal access to educational institutions by all (Department of Education, 2001). All policies, statutes, campaigns and commitments outlined above highlight education as a fundamental right and detail the kind of education that is envisioned for all.

As such, the UNDHR with other legal provisions such as covenants, declarations and statements, clearly acknowledge the right to education and the importance of inclusivity in education, and inclusive education.

Below I focus on the development of inclusive education in South Africa.

The advent of inclusive education in South Africa in 2001 was an attempt to represent a new agenda for an educational reform to redress the pre-1994 educational exclusion. Educational marginalisation and apartheid policies in South Africa had separated communities in all spheres of life (Pather, 2011). This separation led to segregated placement in schools, and accessibility to education was not equal. There was unequal accessibility to education between black and white learners because schools for black learners were under-resourced and they experienced many school dropouts due to various reasons, whereas the schools for white learners were well-resourced in terms of infrastructure and human resources.

Although inclusive education in South Africa advocates for access and participation for all in education, it is difficult for children without legal documentation to access and participate in education due to some of the requirements by the Department of Basic Education. The Department of Basic Education (2018) stipulates that the following documents are required from South African citizens when making an application for admission of learners into public

schools: birth certificate, immunisation card and transfer card, or last school report card for learners who have been to school previously. There are additional requirements if one is not a South African citizen as follows: study permit, temporary or permanent residence permit from the Department of Home Affairs, or evidence that one has applied for permission to stay in South Africa. In addition, the Department of Home Affairs (2002, p.62) 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.
>
> 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 instructions or training by the person who has control over such premises, unless *prima facie* evidence to the contrary is adduced.

Considering the above stated requirements by the Department of Basic Education, it can be argued that the South African education system is exclusive. This conclusion is arrived at because access and participation in education of children without legal documentation is difficult, if not impossible, because the Department of Home Affairs is clear that learning institutions will only accommodate those with legal documentation to stay in South Africa. My interest, and primary focus from this perspective is what then happens to school–going children, be they immigrants, children born to South African citizens, or where one parent is a South African who does not have legal documentation, in terms of access and participation in education?

### 1.2 Problem statement

The problem underpinning this study is the contradiction between the right to education stipulated in the UDHR, the South African Constitution and the inclusive education policy on one side, and the exclusion of children without legal documentation on the other side. Upholding constitutional rights necessitates the recognition of political and legal rights of citizens, and requires equality and the right to human dignity of all people, irrespective of their citizenship status.

There has been a notable increase of immigrants in South Africa. Highlighting the increase in the rate of migration in South Africa is Kalitanyi and Visser (2010) who noted that migration is one of the defining issues of the 21st century and is an unavoidable component of the social life of countries. Resonating with the unavoidable nature of migration, the South African Department of Home Affairs (2016, p.9) conceded that "humans have always moved and will always move to where they are secure and where they can develop to their potential". The influx of immigrants into South Africa brings with it a strain on the socio—economic and political aspects of the receiving country. The influx of immigrants is not only a result of migrants who leave their own countries, but it could also be attributed to children being born to the immigrants in the countries where they settle (Kalitanyi & Visser, 2010).

With or without an influx of immigrants, countries and governments have an obligation to safeguard the interests of their own people within the confines of their borders through civic rules and regulations that enforce laws. Some of the aims of the South African Immigration Act in the Government Gazette (2002) are to provide for security considerations, detect, reduce and deter illegal immigration and effectively enforce immigration laws (Department of Home Affairs, 2002).

Exclusion from education is not limited to illegal immigrants only. Even South Africans without proof of birth also face the same predicament of failing to get access to schools. An article in the Mail and Guardian by Macupe (2018) reported on how Sonia Sigauke, who came to South Africa from Mozambique in 1986 and had three children with a South African man, experienced challenges in registering her then grade one child in school, and she was worried about her other two children without birth certificates. Sonia had the following to say about her challenge in registering her child for school:

> "I started applying for school for him in 2016. I went to the district office of the Gauteng department of education and they said they would call me but they never did. I went again last year and they never helped me. He was supposed to have started school last year. There are many children in my area (Kaalfontein, Midrand) who do not go to school because they are undocumented. It hurts. It was hard seeing other children going to school and mine was not. He had even developed a habit of playing in the dumpsite because he had nothing to do — imagine! It was really hard." (Macupe, 2018, Mail & Guardian Online).

The comment above illustrates the difficulties parents of children without legal documentation

face to get their children into school and the effects it has on both the children and their parents. From Sonia's comment above, it can be deduced that her case is one of many unreported cases of children without legal documentation failing to get access to schools in Kaalfontein, Midrand and elsewhere.

Another report by Rinquest (2017) outlined how South African citizens are denied their right to education in their own country. Rinquest (2017) wrote an article on Sinothando, a 30 year–old South African born in a remote village of the Eastern Cape who could not register her daughter, Aphiwe, for school because Sinothando (the mother) had no proof of identification. Her parents died when she was still a child and her only other known relative had also died.

### 1.3 Aim of the study

The current educational status of being denied education or facing difficulties in accessing education, especially for children without legal documentation, as attested to by the above two examples and other unreported cases, is of concern. It has a significant negative impact on the children's current well-being as well as their future socio-economic status. This study is, therefore, worth undertaking to explore, investigate and inform the notable tension between human rights, conditions of their realisation, and their impact on inclusive education.

It is hoped that the findings from this study could stimulate further research on the topic, and in a small way make a useful and contextual contribution to the growing knowledge around inclusive education, diversity and the rights of children to education. Findings from this study could also in a small way contribute to some awareness among policy makers as they try to resolve the problem of children without legal documentation and their right to education in the light of globalisation.

### 1.4 Research questions

The questions guiding this research are:

**Main Question**

To what extent do children without legal documentation enjoy their right to education in light of inclusive education in South Africa?

**Sub questions**

1. Is the South African inclusive education system really inclusive to all children?
2. What is the implication of South Africa's laws and practices with respect to children's legal documentation and right to education?

### 1.5 Rationale of the study

This study is worth undertaking because I am worried about the plight of children who are excluded from education because of a lack of legal identification documents, despite these children have rights that they are entitled to. The Convention of the Rights of the Child treats children as "individuals with dignity who have all the rights of an adult human being, rights that should not be limited to some children but to all children" (Nieuwenhuis, 2007, p.33). It is therefore out of concern and curiosity that I sought to explore the extent to which children are being included from education, seventeen years after an inclusive education system framework was laid out in South Africa with a broad scope of addressing the diverse needs of learners who experience barriers to learning. Several studies have been conducted on the plight of immigrants and children without legal documentation and their right to education (Osman, 2009; Kalitanyi & Visser, 2010; Crush & Tawodzera, 2011). These studies focused mainly on immigrants' discrimination and their difficulties in accessing education in South Africa. Human rights make life worthwhile, and in the context of this study they form the fundamental basis of education, and more specifically human rights are the basis of inclusive education, yet some children living in South Africa are still excluded from the education system in a country that claims to be inclusive in terms of education.

### 1.6 Research methods

My study is a qualitative study that used mixed methods and has the characteristics of a case study. It was based on Cosmo Oasis, an NGO that assists children with basic literacy and numeracy skills and the acquisition of identification documents and school placement where possible. I chose to adopt a qualitative study which would help me describe participants' behaviours and experiences. I used semi-structured interviews and questionnaires containing both open-ended and closed questions. I interviewed two Gauteng Department of Education (GDE) officials who were experts in inclusive education and on the GDE online application system. I also interviewed Cosmo Oasis personnel, four parents and four learners stationed at the Cosmo Oasis institution. The semi-structured interviews were transcribed verbatim to allow me to analyse and report on the data and the findings. The questionnaires were given to parents

and the children who administered them themselves. I applied the process of data analysis proposed by Creswell (2012) who proposed that six steps be followed. The process entailed organising and sorting of the transcribed interviews, followed by sorting and coding into major themes, and lastly, refining that data and situating data into categories. This is discussed in detail later in the data analysis chapter.

### 1.7 Operationalisation of Terminology

The definition of terms in this study are broad but for the sake of convenience I will briefly operationalise the terms in the context of my study. Undocumented children

In this study, undocumented children refer to children who include migrant, immigrant, and refugee children without legal identification documents that include, birth certificates, passports, study permits and other various types of permits that legalise these children's residence in South Africa. As will be seen later, children who are South African and are born in South Africa, are also without legal documentation. As such, being undocumented is experienced bylocal South African nationals, refugee, migrant or immigrant children. The participants in thisstudy are all Zimbabwean children, who are undocumented, who are in South Africa, and whoare migrants/immigrants.

#### 1.7.1 Refugees

Refugees are defined as "persons who are outside their country of origin for reasons of feared persecution, conflict, generalized violence, or other circumstances that have seriously disturbed public order and, as a result, require international protection" (United Nations, 2018). These people are therefore outside their native countries as a result of some pending danger or threats. As such, some refugees find themselves in refugee camps which according to Parekh (2020) are often not able protect the basic human rights or guarantee security of refugees leading to the refugees' failure to access adequate housing, work and education. For the purposes of this study, refugees are children from other countries who have settled in South Africa mostly for better economic opportunities or a better political climate.

#### 1.7.2 Migrants and Immigrants

The terms "migrant" and "immigrant" are often used interchangeably yet the two terms are different. According to Gogol (2022), both groups have left their countries, however, migrants willingly move to other countries for education or employment purposes and their move is

temporary, whereas immigrants also willingly move to other countries but they move permanently to legally and permanently settle in another country. With regards to migrants, the United Nations (2018) contends that there is no formal definition for migrant, but most experts agree that an international migrant is someone who changes their country of usual residence, irrespective of the reason for migration or legal status.

The striking difference between refugee, migrants and immigrants is that refugees have been displaced by circumstances that threaten their safety, whereas migrants temporarily move to other countries for various reasons, and immigrants legally and permanently settle in other countries. For the purposes of this study, migrant children are children who have illegally settled in South Africa, these children were either accompanied by their parents or guardians who had also illegally settled in South Africa. Alternatively, these children were born in South Africa but they were born to migrant parents thus, both the parents and children were in South Africa illegally. Refugee, migrant and immigrant children can find themselves without legal identification documents for various reasons that will be discussed later. These children go through various experiences in the context of their education in South Africa as a result of the missing legal identification documents as shall be discussed below.

### 1.7.3 Equality in education

There are different types of inequalities. According to Rousseau, there are two types of inequalities among humans. One is natural or physical and the other type is moral or political (Brumfitt & Hall, 1973). The former is established by nature, and its differences in health, age or mind among other differences, whereas the latter is "established in conventions which privilege and or prejudice others" (Brumfitt & Hall, 1973, p.44). Equality in education is a complex term to define but it takes into account human differences emphasises that differentiation is not the same as discrimination (Grant, 1980).

Despite differences that exist among people, all people should be awarded equal opportunity to education as per the UDHR. Children without legal documents and their parents expect to get access to and be able to participate in education just like anyone else. Equality in education in this research means fair treatment with respect to access to education and fair participation in education.

### 1.7.4 Inclusive education

Inclusive education is a system of education that provides a means of combating discriminatory attitudes to realise education for all by ensuring access and participation of all children

(Armstrong, Armstrong & Spandagou, 2011). There are several discourses on inclusive education that I engaged with in the research. Inclusive education aims to promote citizenship and the common values of human rights, freedom and tolerance. In this study, inclusive education refers to access, equity and participation in education by all.

### 1.7.5 Diversity

Diversity is a complex term to define and the complexity is further compounded by the fact that South Africa is a diverse country in terms of ethnic and cultural differences. For the purpose of this study, diversity refers to differences in demographic composition (Roberson, 2004). Resonating with that definition of diversity is McMillan and Schumacher (2014, p.24) who noted that diversity encompasses differences from immigrant families and "those who have lived in a country for generations" in addition to differences emanating from culture, religion and ties to the homeland. In light of these definitions, and for the purposes of this study, diversity will refer to the differences in the population of people living in South Africa as a result of migration.

### 1.7.6 Human rights

Human rights are broad philosophical and relational terms that can be traced back to Hobbes (1946) and Locke (1947). These modern thinkers stressed natural rights which have since been replaced by human rights when country representatives from many countries endorsed the rights set out in the Universal Declaration of Human Rights (Weston, 2002). Human rights form an integral part of this study because the plight of children without legal documents in accessing education is measured against the backdrop of human rights. Human rights are essentially based on the assumption that "human preservation and development, conditions of peace and stability are necessary in human beings' relations with others and their environment" (Carrim, 2006, p.7). There is a controversial taxonomy dividing human rights into three generations, namely, the first generation which constitutes individual rights, the second generation that constitutes social, economic and cultural rights, and finally, the third generation which constitutes solidarity, environmental and developmental rights. Describing the third-generation rights, Leib (2011) asserts that third generation rights is "a set of rights designed to protect human values that are likely to be severely violated as a result of rapidly evolving issues on the international stage" (Leib, 2011, p.54). Furthermore, Weston (2002) articulates that the notion of three "generations'' of human rights advanced by the French jurist Karel Vasak, is a "simplified expression of an extremely complex historical record and is not intended to suggest a linear process in which each generation gives birth to the next and dies away" (Weston, 2002,

p.5). The rights issues to be dealt with in this study cut across the three generation of rights. Whilst human rights are arguably essential for understanding human survival, they are also used to exercise control and power over other people. This is evident at the confluence of rights and law. Outlining the inconsistency between rights and laws is Hobbes (1946, p.85) who noted that, "rights liberate and laws bind." Rights give freedom of self—preservation and enable man to live comfortably, whereas laws limit the freedom that man has because he cannot do as he pleases because "law is a command, the expression not of reason, but of will" (Hobbes, 1946, p. xliii). Rights are therefore essential to ensure that people live comfortably, and laws, although limiting in nature, instill order within the society and indirectly contributes to people living comfortably. Although human rights are essential for living comfortably, they are characterised by a lot of controversy such as their universality and tension between security, human rights and the historical progress of human rights in light of globalisation (Ishay, 2004). Such controversies and tension may negatively affect the realisation of human rights. These controversies will be dealt with in detail later in the thesis.

Rights are enshrined in the constitution of a country which articulates rules that govern the conduct of the governed and the powers vested upon government, and the Constitution is "the most important pronouncement of any legislature'' (Motala & Pampallis, 2001, p.16). Rights are also outlined in the UDHR with the former being more comprehensive than the latter. Anything contrary to the constitution becomes null and void. This is supported by the Constitution of the Republic of South Africa (1996, p.1243) which states that the constitution is "…the supreme law of the Republic, law or conduct inconsistent with it is invalid." The rights contained in a constitution are limited to the citizens of a country. In the context of this study, human rights are sets of principles that ensure equality, fairness and make life worth living.

### 1.8 Structure of the research

#### Chapter 1: Introduction

This chapter constitutes the introduction of the study by providing a background to the study. In this chapter, I outlined why it became necessary to conduct this study in terms of the aims and the rationale of the study. Outlining the aims of the study was achieved by delineating the main research and sub-questions.

**Chapter 2: Human Rights and access to education**

The argument I put forward in this chapter is that undocumented children have a right to education based on human rights. Their inclusion and access to schooling is a matter for inclusive education. Therefore, human rights and inclusive education are interrelated and inclusion of all children in the education system contributes to the realisation and upholding of the children's rights. Chapter 2 forms part of the literature review and covers the conceptual framework. In this chapter I discuss undocumented children and outline the human rights-based approach to inclusive education. I further discuss the legal and policy provisions regarding children's rights to education, including those of undocumented children in inclusive education. I also highlight human rights provisions more generally and the debates around human rights.

**Chapter 3: Children's rights, human rights and inclusive education**

This chapter outlines the conventions, treaties ad declarations that protect children's rights and discuss the complexities about human rights and undocumented children. This is against the backdrop of the exclusionary experiences of children without documentation despite the South African education system viewing itself as inclusive. I therefore argue that, education falls under the human rights discourse and I outline the intricacies surrounding the origins and debates around the universality and enjoyment of human rights specifically by children without documentation.

**Chapter 4: Inclusive education theoretical framework**

This chapter covers the framework of inclusive education of this study. I outline the five approaches to inclusive education by Oliver and Barnes (2010) and the nine models of disability by Retief and Letsosa (2018), and develop an inclusive education framework for this study that is based on a human rights approach to inclusive education within the social model paradigm. I also argue that research has shown that inclusive education is characterised by debates that make it difficult to fully measure the realisation of inclusive education by all. I outline the background regarding the conceptualisation of inclusive education, discuss the lack of conceptual clarity on inclusive education, the lack of implementation of inclusive education policies locally and globally, and the debates about whose voice is heard in inclusive education.

**Chapter 5: Research Methodology**

This chapter outlines the research design adopted for this research, which was a qualitative,

mixed-method with an emphasis on the human experience and feelings. This study is a case study of a non-governmental organisation called Cosmo Oasis based in Cosmo City in Johannesburg, South Africa. The data in the study was compiled using audio-recorded, semi-structured interviews, and self-administered questionnaires. In this chapter I motivate for the selection of the site, which in itself was a clear example that there exists a problem regarding the access to education by children without legal identification documents. I further articulate the participants in the study and the reasons for selecting them, and the data collection tools used, taking into consideration their strengths and limitations. I further discuss the research ethics involved in this research.

**Chapter 6: Research Findings**

This chapter covers the research findings. In this chapter I analyse and sort data to produce tables that enhanced the presentation of data to uncover insights from the responses of the participants. Data from the interviews were transcribed verbatim by a professional transcriber. I then used the inductive process of coding the data and breaking down the emerging broader themes into manageable categories.

**Chapter 7: Data analysis**

In this chapter I discuss and analyse the findings from this study by linking theories to data findings. I begin by discussing how the main research question and the sub-questions were answered by the findings. This is followed by the summary findings and the major take away points from the analysis of the findings. Triangulation is done where applicable, and the disagreements are highlighted.

**Chapter 8: Conclusions and recommendations**

This is the final chapter of the thesis. The chapter suggests conclusions and recommendations as informed by the findings of the research. Recommendations are made to all stakeholders who work or take care of children and policy makers in general. Additionally, I suggest that further research is still required in the field of inclusive education and the realisation of human rights.

## 1.9 Conclusion

Chapter 1 provides an overview of how I conducted the research. The chapter has outlined the background to the problem, problem statement, research questions, rationale and aim of the

study entitled “Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.” The important terms used in the research were defined in the context of this study. I also summarised what is contained in each chapter that constitutes the entire research report.

## CHAPTER 2: HUMAN RIGHTS AND ACCESS TO EDUCATION

This chapter focuses on the experiences of children without legal identification documents and their right to education. It does so from an inclusive education perspective. The argument upon which this study is based is that all children, no matter who they are, have access to education based on human right s and as a principle in inclusive education. In light of this argument, Bacakova (2023) asserted that, one of the essential human rights is the ability to receive an education. The realization of this right creates the framework for the enjoyment of other human rights, including the freedom of speech, the right to work, and the right to vote. Even with international funding and programs like the Sustainable Development Goals (SDGs), disparities still exist, not just in the field of educational access. Additionally, Bacakova (2023) The failed goal of universal education is caused by a variety of circumstances, including poverty, displacement, armed conflict, gender discrimination, and complex and harmful to the most marginalized populations.

This chapter discusses the legal and policy provisions regarding children's rights to education, including those of children without legal identification documents and human rights provisions more generally. The argument I put forward in this chapter is that children without legal identification documentation have a right to education based on human rights and their inclusion and accessto schooling is a matter for inclusive education. Inclusive education which is human rights based, then allows for viewing the right to education for undocumented children within inclusive education. In this chapter I clarify what is meant buy immigrants in South Africa, what the legal registration requirements are, and some of the reasons why children do not havelegal identification documentation. I also cover the GDE online application process and debatesaround school admission and legal identification documents. In addition, I look at the experiences of children without documentation in South Africa as well as the experiences of children in OECD countries, Canada and Guatemala. Finally, I also look at citizenship and access to resources and services and how these affect children without documentation.

The section below focuses first on the genesis of immigrants in South Africa, and subsequently the experiences of children without legal identification documents in relation to their education.

### 2.1 Immigrants in South Africa

It is important to delve into the history of immigrants in South Africa as this is one of the contributory factors to the presence of children without legal documentation in South Africa.

The experiences of immigrants in South Africa can be traced back to the onset of the large-scale presence of immigrants in South Africa and the kind of privileges that they had during the 1990s, and how attitudes towards immigrants has changed to date. The Southern African Migration Project (SAMP), documented by Crush and McDonald (2002), recorded that legal and undocumented immigrants from the Southern African Development Community (SADC) region were attracted to South Africa at the fall of Apartheid. Legal and illegal migration has increased since 1990 which was partly due to the easing of legal and unauthorised entry to South Africa. This is supported by Peberdy (2001) who noted that Thabo Mbeki, the then South African president, launched the idea of an African Renaissance that sought to strengthen ties with the African continent. In addition, Bongmba (2004) added that the African Renaissance was aimed to promote African pride and encouraged African-centred trade that would stimulate sustainable development and recognise common bonds between South Africa and the rest of the world. In addition to the African Renaissance, Peberdy (2001) postulated that South Africa gave three amnesties to immigrants which legalised their stay in South Africa and gave them rights usually given to citizens of a country. Between 1995 and 1996, mine workers from the SADC region, who had been in South Africa for a minimum of ten years, were given permanent residence and were allowed to vote in 1994. In 1996 amnesty was granted to SADC members who had been in the country for more than five years, and finally, in 1997 amnesty was given to Mozambican refugees who entered South Africa before 1992. These amnesties were recognition of the discriminatory immigrant practices and sacrifices by non-South Africans during apartheid, their economic sacrifices and contributions in the country. These amnesties were interpreted differently by citizens and could be attributed as the cause of tension between immigrants and South African nationals. In addition to the easing of legal and unauthorised entry into South Africa, Richard, Adams and John (2005, p.1646) pointed out that some immigrants are "…pulled towards fairly firm prospects of a job" whereas De Jager (2011, p.107) stated that some people migrate due to "…persecution and hostilities in their home countries." Therefore, South Africa was viewed as an alternative refuge for those fleeing socio-economic and political challenges in their countries, hence the huge influx of foreign immigrants into South Africa. Although Crush and McDonald (2002) noted that initial visits to South Africa were temporary and strategic, there were indicators of permanence in some populations, especially but not exclusively Mozambicans.

Although formal employment was staggering in the 1990s, it did not stop many foreign immigrants from coming to South Africa fleeing from political and cultural persecution, especially from Mozambique, Zimbabwe, Lesotho and Malawi. However, Mattes, Crush and

Richmond (2000) argued that immigration into South Africa was not only limited to SADC nationals. Instead, there were immigrants from other countries outside of SADC and about 87% of the 400 foreign skilled nationals in South Africa by 1991 came from non-SADC countries, thus nullifying the claim that the influx of immigrants into South Africa was only migration from SADC countries. The influx of immigrants influenced reconfigured communities through transnationalism which Crush and McDonald (2002) described as exchanges between immigrants of host and home country. Transnationalism registered a myriad of consequences, and some of the consequences closely related to this research are contestations over access to resources and services, such as education among other services and the onset of xenophobia, to be discussed later.

Resonating and illuminating a picture on the influx, statistics and status of those in South Africa by 2011, Proudlock and Martin (2014) noted that there were 220 000 asylum seekers in South Africa from Somalia, Democratic Republic of the Congo (DRC) and Zimbabwe in 2011. By the end of 2011 only 63 000 had obtained a refugee status. However, these notable increases contradict Statistics South Africa (2016) that reported that there was a decline of immigrants from about 2.2 million (4.2%) in Census 2011 to 1.6 million (2.8%) in Census 2016. These statistics that showed a decline in the numbers of people coming into South Africa were reportedly not conforming to expected outcomes and results of the Community Survey (CS) 2016, rendering the need for further investigation. The expected outcome was an increase in the number of immigrants into South Africa. Nevertheless, more recent statistics according to Statistics South Africa (2019) claim that during the period 2016–2021, Gauteng accounted for 47.5% of net international migration, with the Western Cape receiving 11.6%, Free State received 3.1%, and the Eastern Cape received 3.6%, attracting the fewest of the net international immigrants. This is supported by the Migration Data Portal (2021) which noted that South Africa is the destination with the highest immigrants constituting 23% of the world's immigrants which could be translated to 1 617 492 in 2020. An increase in immigrants subsequently led to a correlational increase in the number of children without legal identification documents which are crucial for school registration in South Africa. Although policy affords such children an opportunity to access education, that is not always the case. A few anecdotal examples of experiences where children without legal documents have failed to get access into schools were highlighted earlier in Chapter 1. This attests to the fact that many children have been excluded from gaining access to education in South Africa despite South Africa being the only home that they know, simply because they do not have legal identification documents. Thus, the issue of the absence of legal identification documents is a serious one

and has had negative consequences on some children and families as far as education is involved. Below I discuss the required identification documents for school registration in South Africa and the implications of missing identification documents.

### 2.2 Legal identification documents and school registration

There are several documents that act as legal identification documents for children as follows: birth certificate or passport, and / or a permit. It is international law, as spelt out in various conventions; for example, the Children's Rights Convention Article 7 states that "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" (United Nations, 1989, p.1) and in the South African Constitution Section 28. (1) p.11, states that (1) "Every child has the right— (a) to a name and nationality from birth". However, Scalabrini (2018) acknowledged that "regulations around birth registration in South Africa mean that children born to parents with expired documents and blocked or lost South African IDs cannot be issued with a birth certificate." It is important to note that some form of identity document is a necessity to prove the birth and existence of an individual and these documents are equally crucial for school registration. Be that as it may, some children find themselves without any form of identification documents for various reasons and these children are often referred to as "undocumented children." The various reasons for the missing identification documents are discussed below.

### 2.3 Reasons for the absence of legal identification documents

There are several reasons for the absence of legal identification documents. Some of these reasons were put forward by Proudlock and Martin (2014). These reasons range from abandoned and orphaned children, children taken care of by caregivers without identity documents, and absence of proof of birth because the child was born at home. It could also be children born in South Africa to foreign nationals without legal documentation, and poverty that deters parents and caregivers from pursuing social workers or children court orders required before the child can be registered. The study by Ackermann (2018) revealed that fifty-five per cent of the children in the study did not have birth certificates for various reasons such as death of a mother, undocumented parents, and birth on a farm and abandonment. This was consistent with the reasons that Martin (2014) also noted for missing documents amongst children. Sixty per cent of the children in the study by Ackermann (2018) were attending school, while forty per cent were not. Some parents and caregivers of the children not attending schools singled out the absence of documentation as a reason for not attending school among

other reasons such as inability to afford schooling and language barriers.

Additionally, some legal identification documents are missing due to systemic reasons. Scalabrini (2018) noted that "some social workers within the South African context can be reluctant to take on cases of undocumented foreign children" which further exacerbates the plight of children of immigrants without legal documentation. Furthermore, the inefficiency of some Home Affairs officials contributes to the non-issuance of legal identification documents. Some parents from Limpopo and the Western Cape provinces who took part in a study conducted by Hlatshwayo and Vally (2014), reported that they were being referred to their original countries by officials at the Department of Home Affairs to obtain birth certificates or additional documentation even if their child was born within South Africa. Additionally, the officials were also cited for their systematic exclusion through demanding bribes, delaying provision of study permits and being rude (Hlatshwayo & Vally, 2014). This delay and corruption in processing legal identification documents perpetuates the exclusion of children without documents of already vulnerable children as noted by Proudlock and Martin (2014). It is often the already vulnerable children due to poverty, abandonment or orphaned that struggle to attain birth certificates and are again excluded from school.

The above discussion acknowledges the existence of children without legal identification in South Africa. However, due to various reasons, some children find themselves without identification documents which negatively impacts their school registration, especially with the current school registration process applicable in some provinces of South Africa as shall be discussed below.

### 2.4 Gauteng Department of Education Online Application

There are nine provinces in South Africa and an online application for school registration is applicable in one of the provinces, namely Gauteng. In 2015 the Gauteng Department of Education (GDE) in South Africa introduced an online application system for school registration for Grade 1 and 8 leaners. This system entailed that children beginning Grade 1 and 8 had to do an online application for school enrolment instead of directly and physically applying at schools. The guidelines for an online application for the year 2019 were laid down by the Gauteng Department of Education (Citizen Reporter, 2018). In these guidelines, parents were to apply to a maximum of five schools within the feeder zone based on their residential place, workplace, current school or where siblings of the learner attended, provided they were not in Grade 7 or 12 in the year of application. The guidelines stipulated that upon receipt of a successful application the following documents for learners applying for grade 1 had to be

submitted to each of the schools applied to within seven days: parent or legal guardian ID, learner's birth certificate, proof of home or work address, and clinic/immunisation card. A report card for learners applying for grade 8 had to be submitted as well. This process did not take into account learners without legal documentation which could lead to their exclusion from school. Parents and guardians who fail to process their applications are encouraged to contact GDE via a call centre, email, or physically visiting the GDE offices, but the reality of the matter is that very few parents did, especially those without legal identification documents,causing a number of children not to be registered for school.

It must be noted that there is a claim that children without legal documentation can be admitted into South African schools, but their admission is provisional. This is per Regulation 6 of The Regulations on Admission of Learners to Public Schools (2012). Also, the study by A. C Serote of the National Department of Education acknowledged that "if the parent is unable to submit a birth certificate, the learner may be admitted conditionally until the copy of the birth certificate is obtained" (CERT, 2011, p.10 in Hlatshwayo & Vally, 2014). During the provisional acceptance period, parents and/or guardians are expected to rectify and obtain legal identification documents for the children. Research has made it apparent that the application of this provisional admission is questionable and debatable in light of cases of children without legal identification documents who remain out school thus illuminating a conflict between the Regulations on Admission of Learners to Public Schools and what really transpires on the ground. This conflict is not new, it was noted about ten years ago in a study by Crush and Tawodzera (2011, p.3), and it still persists today. Crush and Tawodzera (2011) noted that "most school authorities do not give parents a chance to enrol their children while they try to secure the required documentation. The choice is documentation or no registration." My study, conducted almost ten years after Crush and Tawodzera's (2011) study, showed that the status quo in the admission of children without legal documentation in South Africa in 2019, was the same as it was in 2010.

### 2.5 Debates around school admission and legal identification documents

There are debates and issues that affect the realisation of the right to education by children without legal identification documents despite the provisional acceptance that is afforded by policy. There are issues of accountability in education regarding the budget and provision of resources that influence the acceptance of children without legal identification documents in schools. The Constitution of South Africa warrants access to education and ensures that basic

education is adequately funded by the state. It is therefore the obligation of the government to the people to raise money through tax collection and allocate funds in a way that ensures that the government fulfils its constitutional obligations to the people (McLaren, 2017). The budget process has to be as transparent as can be and is underpinned by "public participation, equity and accountability" (McLaren, 2017p.41), hence those who use the budget have to transparently account for the usage of the budget. From this perspective, it is difficult to cater for children without documentation, factoring in that per-pupil expenditure is used to express the national per-pupil average and that "basic education commands a substantial slice of overall government expenditure" (UNICEF, 2017, p.7). The existence of children without legal documents in schools negatively affects the allocation of educational resources and often leads to a flawed allocation of these resources. If children without legal documentation are enrolled in schools, they end up using resources that were not specifically and rightfully allocated, nor are entitled to them, with adverse financial implications on the schools, taxpayers and accountability repercussions on those who have to account for the use of funds, for example, school principals and the Department of Education. The Department of Education is also governed by the Public Finance Management Act, 1999 which regulates financial management in the national and provincial governments to ensure that government resources are managed efficiently and effectively (Department of Basic Education, 2016, p.10). Catering for children without legal documents in schools will therefore affect the accountability and transparency of the use of allocated funds meant for children with legal identification documents and can result in unethical issues of using funds on people who are not meant to benefit from the funds, and whose existence cannot be proved due to missing documents.

Another debate, from a different perspective, is that it is crucial to give parents a voice in the education of their children, this includes parents of children without legal identification documents. According to Dustmann and Glitz (2011), parents play a crucial role in providing care to children to ensure that they get access to education and providing support during traumatic episodes emanating from learning in host countries. Parents without legal identification documents, who in turn have children without legal identification documents, find it difficult and almost impossible to negotiate the enrolment and admission of their children into schools. Also, a study by Marishane (2021), examined immigrant parents' views on children's right to education in South Africa against vulnerable and marginalised parents. Marishane (2021) contends that many studies of immigrant learners are approached from a law and human rights perspective, yet the voices of parents are seldom heard. The study by

Marishane (2021) was based on the UDHR Article 26 (3) which states that, "parents have a prior right to choose the kind of education that shall be given to their children" (Action Institute, 2017). Studies have shown that parents and guardians without legal identification documents do not always have a voice neither are they presented with choices regarding the education of their children. Failure to give parents and guardians a choice, has in some cases led parents to fraudulent activities to ensure that their children were enrolled in schools.

Research has shown that some parents, whose children failed to get access in schools as a result of the absence of legal identification documents, resorted to unscrupulous ways to ensure that their children got access to school. Some of the ways were faking identification documents, and the practice was reportedly taking place during applications for green bar-coded identity documents (Department of Home Affairs, 2015). This practice was resorted to by some parents as reported in an article by Chiguvare (2018) in GroundUp that "Zimbabwean families caught between the departments of Home Affairs and Education are resorting to buying fake documents in order to register their children at schools in South Africa." A fake document in Cape Town in the Retreat area was going for about R300. Other parents resorted to taking their children to unregistered schools which were on the brink of facing closure. Over twenty schools had been closed by the then Gauteng Education MEC, Panyaza Lesufi, because they were unregistered (Makaneta, 2019). Whilst some unregistered schools were facing closure, some informal schools were being established elsewhere.

### 2.6 Experiences of children without legal identification documents in South Africa

The absence of identification documents has several negative implications on the education of the child which also affects the quality of life that they will lead as adults in future. If a child does not have a birth certificate, it becomes increasingly difficult for the child to enrol in school or access health care facilities, and the child runs the risk of being stateless because "those without birth certificates are not entered into national population registers. This also means that the child without a birth certificate is more likely to remain undetected for care and protection" Scalabrini, 2018). Therefore, children who fail to access education are less likely to enjoy other rights that make life worthwhile. This was highlighted by Spreen and Vally (2006) who viewed education as a multiplier that improves the enjoyment of all individual rights and freedoms, yet for some children in South Africa, it remains an unattainable value due to missingidentification documents.

The excerpt below appeared in the Mail and Guardian newspaper in 2019 as evidence of the many cases where children were being denied access to education on the basis of missing documents:

> "Last week we read in the Mail & Guardian ("Schools expel children with no IDs") of one case being heard in the high court (filed in 2017) representing 37 children in the Eastern Cape who have been forced to leave school because they do not have birth certificates or ID documents.
>
> Following a circular sent out to schools by the Eastern Cape department of education, these children have reportedly been denied access to classrooms, learner support materials, textbooks and school nutrition since 2015 because they do not have the correct documentation."
> (Misselhorn, 2019, Mail & Guardian Online).

The above newspaper report highlights the extent to which statutory restrictions limit the registration of undocumented children in South Africa. There are few alternatives for the affected children because the exercising of other basic human rights is closely linked to identification documents. The situation is worse for unaccompanied children or children separated from their parents. Case studies by Ackermann (2018) showed that unaccompanied and children separated from their parents, but living with other guardians, struggle to reach the social workers, and as a result these children get little to no consideration in terms of legal identification documents. Ackermann (2018) acknowledged that legislative gaps and stringent requirements result in unaccompanied, or children separated from their parents, failing to get a variety of services such as access to education, birth registration and the right to nationality. Additionally, Ackermann (2018) argued that being born in South Africa does not guarantee that someone automatically becomes a South African citizen. This therefore means that access to the services mentioned, is not by default, it is not merely determined by being born in South Africa, but strictly on citizenship.

The educational experiences of children without legal documents are further exacerbated by contestations between regulations and policy. Ackermann (2018) noted the contradictory nature of regulations and policy governing the enrolment of children into schools. This in turn makes the requirements for the admission of children without legal documentation an unclear and confusing process. Ackermann (2018) articulated that, "the laws governing access to

education by foreign children are contradictory" (Ackermann, 2018, p.977), and states how the Bill of Rights extends the right to basic education to "everyone," and the South African Schools Act (SASA) makes it compulsory for every child to attend school from age seven until the learner reaches 15 years, or the 9th grade, whichever comes first. The National Policy around admission of learners into schools asks the school principals to assist with document acquisition if not available. Furthermore, the National Policy stipulates that if documentation is not available the child should be conditionally accepted for three months whilst working on paperwork, and by the end of three months, the SGB, in consultation with the District officials, must liaise with relevant authorities and parents. However, Ackermann (2018) posits that Section 39 (1) of the Immigration Act renders instruction by a learning institution to an "illegal foreigner" an offence for which the school and the principal may incur criminal liability. The National Education Policy Act (No. 27, 1996) requires persons classified as illegal aliens, when they apply for admission for their children or for themselves, to 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 (No. 96, 1991) (Ackermann, 2018, p.984.) The position above is rendered confusing and difficult for school administrators to interpret.

Some separated or unaccompanied children without legal identification may end up requiring foster care which is again complicated regarding the systemic procedures and requirements. Regarding the fate of unaccompanied or separated children and the child protection system, Ackermann (2018) noted that although Section 28(1) (b) of the Constitution states that every child has the right to family care or parental care or appropriate alternative care when removed from the family environment, only citizens and recognised refugees and permanent residents are eligible foster parents, making it difficult for undocumented guardians to be guardians or adoption parents. A recommendation suggested by Ackermann (2018) is a mechanism to regularise unaccompanied or separated children so that they can enjoy services and facilities just like any other children. It is important to note that in some court cases, the courts have ruled in favour of children's right to education, but the inconsistences in the admission of children, remain.

In an article in response to education in the case of children who were denied access to education due to missing identification documents in South Africa, the High Court ruled in December 2019 in favour of the children's right to education. The article in News24 read:

> Undocumented children, including children of illegal immigrants, can now attend public schools, thanks to the Eastern Cape High Court in Makhanda. The court

> granted the order in an application the Centre for Child Law lodged against the minister of basic education in 2017 in which it emerged that many children were unable to attend school because they didn't have identity numbers, birth certificates, permits or passports. "The first to third respondents are directed to admit all children not in possession of an official birth certificate, the principal of the relevant school is directed to accept alternative proof of identity, such as affidavit or sworn statement deposed to by parent, caregiver or guardian of learner where in the learner is duly identified" Eastern Cape Judge Selby Mbenenge ruled.
>
> Chabalala (2019)

In spite of this ruling, there remains inconsistencies between the Eastern Cape High Court verdict and the fact that some children without legal documents still find themselves out of school, hence this research seeks to investigate the plight of children without legal documents in South Africa.

Additionally, below is a petition from a student who was on the verge of failing to write her National Benchmark Test (NBT) in 2021 and was likely unable to apply for bursaries and get Matric results due to missing identification documents.

> I'm Karolyn Mujinga. I'm 18 years old. I was born at Groote Schuur Hospital, Cape Town in 2003 to Refugee Parents. I've spent my whole life in South Africa. South Africa is the only home I have ever known. I am now in Matric and one of two Deputy Head Prefects at Kensington High School but I am unable to apply for National Benchmark Test (NBT) or University because I do not have an ID.
>
> I need your help with signing my petition to make sure my voice is heard!
> I cannot apply for Citizenship because the Immigration section at the Department of Home Affairs is closed due to Covid-19 Lockdown Regulations. Without an ID, I cannot apply for University, NBTs, and bursaries or even get my Matric results.
>
> With my petition I am calling on the Department of Home Affairs to create a Citizenship Helpline or provision for South African Born refugees in South Africa to be able to apply for citizenship application, so that I and many others like me can have equal opportunities as South African Matriculants (Mujinga, 2021).

The above examples, and many other unreported cases, are representations of what some children without legal identification documents have to go through in South Africa, and it is an indication that there are still issues of accessing education by children without legal documents.

### 2.7 Xenophobia and its effects on undocumented children

The situation is worse for immigrants because of the unwelcoming and stereotypical environment they find themselves in. The immigrants are labelled as "leeches who unfairly benefit from economic services meant for citizens" (Tlou, 2011). The immigrants are therefore believed to be benefitting from services that are not meant for them. Some immigrants have come to accept this label as highlighted by testimonies captured by Hlatshwayo and Vally (2014). Hlatshwayo and Vally are researchers at the University of Johannesburg Centre for Education Rights and Transformation (CERT) who conducted a study following the inadequacies of South Africa with regards to the violation of human rights and immigrants in the xenophobic attacks of 2008. The study was conducted in Gauteng, Limpopo and the Western Cape, and the choice of the provinces was based on the high numbers of immigrants and more pronounced xenophobic attacks in these provinces. The immigrants were not viewed as victims of xenophobia and human rights violations, but as agents for change in formulating responses to xenophobia in schools. The study noted that responses from immigrants showed that the immigrants appeared to have accepted the power of the oppressor to the extent of accepting it as a norm. Other participants acknowledged the effects of xenophobia as trauma and fear. Most mothers of the immigrant children cited that the xenophobic effects of trauma and fear affected both the mothers and the children. The mothers felt that they could not protect their children and the children felt the threat of discrimination. The findings from the study linked xenophobia to violence and crime involving the immigrant children. The experiences of the journey to South Africa were reportedly violent by some of the immigrants who used unconventional and risky ways to get into South Africa. Violence and crime reportedly continued after crossing the border. The principal of Musina High School reported that "crime syndicates use undocumented immigrants including children in criminal activities" (Hlatshwayo & Vally, 2014, p.271). In addition to that, the immigrants faced negative attitudes and the use of derogatory names to refer to immigrants. The study also noted that the immigrants developed networks that affirmed migrant learners and immigrants as social agents of change that enrich local inhabitants and school professionals. These networks were in the form of individual, collective and community resilience and reliance on solidarity from migrant

and civic organisations. At the height of xenophobia in 2011, some immigrants on the East Rand used the Rand Airport camp as their living space. They further made a makeshift school out of a disused double-decker bus. The bus was improvised as a school and was subdivided into classrooms used to cater for 76 pupils who ranged from grade 1 to grade 12. This showed that children without legal documentation and their parents responded differently to their situations. Some accepted their circumstances as dictated by the community they lived in; others were either implicated or involved in crime, whilst others were geared to find alternative ways to have some form of education despite their challenges.

Xenophobia arises when there is hostility and contestation over resources and services between groups that are perceived as undeserving, foreign and different, and the citizens of a nation. Despite all countries having established additional separate laws for refugees or non-citizens, there remain tensions between citizens and non-citizens over access to rights and services that make life fulfilling and enjoyable. This forms the basis of xenophobia, which is increasing in South Africa.

Xenophobia is defined by the South African Human Rights Commission (2000, p.12) as the "irrational fear and deep dislike of non-nationals." This irrational fear and dislike of foreign nationals is exhibited by citizens of a country who happen to share their country with the foreigners.

Social and economic integration of immigrants sparked debates around "illegal" immigrants based on the claim that immigrants negatively affected the South African economy and society by consuming resources entitled to South Africans (Reitzes & Bam, 2002). This observance was in consensus with Mattes, Crush and Richmond (2000), who noted that immigrants and migrants are stereotyped as threats to the economic and social interest of South Africans, yet the immigrants and migrants remain optimistic about personal prospects in South Africa.

A similar study by Dodson and Oelefse (2002) in Mizamoyethu, Cape Town, reinforced the presence of competition for jobs and facilities between locals and immigrants. There were notable outbreaks of violent attacks in Mizamoyethu as the immigrants, mostly from Namibia and Angola, and the locals fought for jobs in the local fishing industry, housing services and facilities in 1997. There was general antipathy towards foreigners based on the premise that they were rude, untrustworthy, violent criminals and brought diseases into the country (Dodson & Oelefse, 2002). One strong recommendation that emerged from this study was the

establishment of a framework that manages immigration with aspects of legislation, bureaucracy, public education and research.

In 2008 a new wave of xenophobia spread across South Africa leaving 62 dead, 670 wounded, women raped, over 1000 people displaced and property worth millions destroyed (De Jager, 2011). It has to be noted that many incidents of xenophobia are not reported or receive no attention. Responses to questionnaires in a study by Chimbga and Meire (2014), showed some strong sentiments from South African citizens that foreigners should not be given the same rights as citizens, as they might end up not going back to their countries, or end up dominating in South Africa (Chimbga & Meire (2014, p.1698). To add to that, McDonald, Mashike and Golden (2000) noted that the issue of non-citizens and rights raises moral and economic dilemmas. The media was reportedly full of stories of the "hefty burden" "illegal aliens" placed on the economy of South Africa (McDonald, Mashike & Golden 2000, p.186) and further stated that the then minister of Home Affairs, Mangosuthu Buthelezi, was once quoted in the Sowetan of 30 April to 7 May 1997 stating that "many [non-citizens] are investing and providing necessary and welcome skill" but was also quoted saying "illegal immigrants did not have access to services paid for by the South African taxpayer." These statements exhibit the extent of the dilemma posed by the presence of immigrants in South Africa in light of the social contract that exists between the government and the people that put the government in power. On the other hand, Thabo Mbeki was clear on his stance by commenting in 2001 that, "All South Africans must be vigilant against any evidence of xenophobia, it is fundamentally wrong and unacceptable to treat people who come to South Africa as a friend as though they are enemies" (Crush, 2001, p.1). Although Mbeki's utterances were a rhetoric they encouraged and advocated for peace between South Africans and non-South African citizens.

According to Crush (2001), the South African Human Rights Commission (SAHRC) noted that xenophobia was a major concern to human rights and democracy in the country as far backas 1997 to the extent that a Roll Back Xenophobia (RBX) programme was launched to send a strong message against hostility to non-nationals. The general finding was "South Africans as a whole are not tolerant of outsiders living in the country" (Crush, 2001, p.2) with 60% of the South Africans believing that immigration and migration had an unfavourable impact on the country. In addition to that, Crush (2001) noted that 40% of South Africans were opposed to Africans from elsewhere enjoying the same access to health and educational services as South Africans. These attitudes towards non-citizens were driven by stereotypes and myths that non-nationals engaged in crime and were violent as discussed above.

According to Crush (2001), although there were negative attitudes from the general public towards immigrants, the South African Constitution was deemed the most inclusive in the world by 2001. The constitution aimed to heal the division of the past and to establish a society that was guided by social justice and fundamental human rights. The constitution withheld the right to vote but gave the right to freedom of trade and occupation to non-citizens. Despite having the right to freedom of trade and occupation, case studies by Crush (2001) revealed that there was a continuous physical and verbal harassment of immigrants. Detainees at a facility reported that they were prevented from showing accurate documents, some valid documents were destroyed and bribes were taken, however not all immigrants had direct hostile or intolerant experiences, some reported that overall conditions were better than in their home country, this included education, health, sanitation and economic opportunities (Crush, 2001). SAMP and other research revealed that there is intolerance against immigrants, and that hostility to foreigners is not confined to a specific racial, social or economic group, and the presence of white immigrants does not provoke the same panic and hostility as that of African immigrants.

A study by Gordon (2019) postulated that anti-immigrant violence on the scale of the May 2008 riots has not been repeated in South Africa, but there has been a spate of smaller attacks that prompted the formation of Xenowatch. This is no longer the status quo as xenophobic attacks in South Africa have become so common and generally on a large scale. Xenowatch is a non-proprietary platform that clarified that South Africa has had a long history of anti-immigrant violence of varying types often encouraged and organised by voluntary associations such as business forums or local community committees. Some demonstrations began as peaceful demonstrations and would later turn violent. Many mass media commentaries highlight economic experiences such as unemployment or poverty as the major cause of anti-immigrant aggression. According to Gordon (2019) the argument that economic status is a driver of hostility towards immigrants follows the “realistic group conflict theory” based on Blumer (1995) and Sherift (1996) (in Gordon, 2019), who maintain that the size of an out group affects the in-group’s evaluations of that out-group. The growth of the out group consequently increases the apathy and level of competition between the in-group and out group. The in group is made of the local people and the out group is made up of the migrants and immigrants. Therefore, the influx of non-citizens increases the threat and resentment of the immigrants by the citizens of a country.

Associations such as charities, sport, clubs, churches and political action committees are believed to be social contexts where good civic norms can be learned. Although other scholars are critical of the role played by civic societies in African democracies, Fatton (in Gordon, 2019) and Gordon (2019) found that associational involvement had a positive effect on public participation in anti-immigrant behaviours.

The most recent campaigns against undocumented nationals have been the Alexandra Dudula Movement and Operation Dudula that both emerged in 2021. According to the BBC news reported by Fihlani (2022), the Alexandra Dudula Movement campaigned against undocumented foreigners who were occupying houses that are subsidised by the government in Alexandra, one of the poorest areas of South Africa located next to Sandton, Johannesburg, a very rich area on the continent. The members of the movement claimed that the houses rightfully belonged to South Africans. Members of the movement also blamed undocumented immigrants for their difficulties. The word *dudula* is a Zulu word which loosely translated means to "push back" or "drive out," succinctly showing that the groups want the undocumented foreigners out of South Africa (Fihlani, 2022). The demands of the Alexandra Dudula Movement grew to demanding that all undocumented African immigrants stop trading in Alexandra.

On the other hand, Operation Dudula based in Soweto came into prominence in June 2021 after Soweto residents marched in Soweto in what was called a "clean up" operation targeting drug dealers and people who occupied government property. The demands of Operation Dudula have expanded to wanting small businesses to employ South African citizens only because they allegedly believe that these businesses hired undocumented immigrants that they paid less. Although there are fears that these campaigns could lead to another spate of xenophobic violence following the 2008 attacks, the outbreak of violence against non-South Africans in Durban in 2013 and the 2018 attacks on Nigerians, both groups have denied being xenophobic. The ANC premier, David Makhura, called on civic groups to work with government and promote peace (Fihlani, 2022).

In addition to Fihlani (2022), Timeslive (2022) claimed that the campaigns against foreigners had expanded to other provinces, in Kimberley and the Northern Cape, the movement is operating under "Operation Fiela." Narend Singh, the Inkatha Freedom Party (IFP) Member of Parliament, commented that even illegal immigrants were protected by law from criminal groups and reiterated that:

> "the rights of any person residing within our borders need to be respected, whether they be asylum seekers or illegal immigrants. We will not support any form of xenophobic action. We would like to say plainly that, campaigns such as operation Dudula cannot take the law into their own hands. Everyone is equal before the law and we must all respect the rule of law" (Timeslive, 2022).

Singh was denouncing the campaign, advocating for peace and upholding the rights of all people including immigrants.

The African Christian Democratic Party (ACDP) leader, Kenneth Mesho, agreed with Narend Singh by commenting that, "The failures of department of Home Affairs could not be pinned on foreigners who were only trying to make a living" (Timeslive, 2022). The South African Immigration Act 13 in the Government Gazette (2002, p.13) stipulates that its objectives and functions include among others, "promoting human rights in government and civil society, facilitate issuance of permanent and temporary residence permits to those entitled to them, discourage illegal foreigners and detect and deport illegal foreigners." The blame for the influx of illegal immigrants was therefore being placed on the Home Affairs Department's failure to deport undocumented immigrants in the country.

The past and latest xenophobic attacks and xenophobic concerns are an acknowledgement of the extent of tension between citizens and non-citizens. It is a further acknowledgment that there is a strain on resources and services as a result of the presence of undocumented immigrants who put pressure on resources and entitlements of the citizens. Although the xenophobic attacks that I have discussed thus far seems to affect the adult population, the effects that these attacks have on adult immigrants are translated to the children's general well-being, and specifically their right to education, thus xenophobia has a negative effect on the right to education of children without legal documentation.

The study by Hlatshwayo and Vally (2014) also highlighted that although immigrants are catered for in education, there are several problems that interfere with the delivery of quality education. The problems cited include overcrowding in schools, travelling long distances, poor infrastructure, and high school fees that see many parents resorting to sending children to non-fee-paying schools. It was also noted that children without documentation are often turned away. This explain that even after getting access into schools, some children without legal

documentation further face exclusion from within. The study further noted that some immigrants with disabled children were working with a migrant support organisation called People Against Suffering, Oppression and Poverty (PASSOP). This is because although most immigrant children suffer discrimination, immigrant children with disabilities face severe discrimination in education because they have special needs. Regarding the right to education issue, surveys in the study at Musina High School in Limpopo, Johannesburg High School in Gauteng, and Maitland High School in Gauteng, showed that the migrant learners and their parents were unaware of their rights with regard to education and that "documentation should not stand in the way of migrant learners accessing education yet this single issue undermines access to education" (Hlatshwayo & Vally, 2014, p.273).

The study also highlighted that teacher training must incorporate strategies to combat xenophobia and uphold the rights of migrant learners. This could be achieved by encouraging school professionals, school principals and School Governing Bodies (SGBs) to ensure that immigrants have a voice in schools through different ways. Some of the strategies include having parent representation in SGBs, and having migrant learners' voices in Learner Representative Councils (LRC). Furthermore, teachers and learners who violate the rights of migrant leaners should be held liable through disciplinary action. School interventions were deemed necessary through psychologists to provide counselling to migrant leaners who are victims of abuse to help them regain their self-esteem and confidence and develop their capacity for resilience.

There is more to the plight of children without documentation at the hands of authoritative significant stakeholders in education who perpetuate discrimination and exclusion from within the school parameters either intentionally or unintentionally due to ignorance, and lack of training on how to include children without legal identification documents. In addition, lack of parental involvement in the education of their children also negatively affects children without legal documentation as they do not have a voice in their learning experience by virtue of their parents not participating at decision making level, such as being members of the SGB.

The study by Hlatshwayo and Vally (2014) informs my study in various ways. It outlines the challenges that are faced by migrant children without legal documents, and highlights that these children and their parents often face other challenges such as fear and trauma due to xenophobic attacks, which is also a point of interest in my study. Furthermore, Hlatshwayo and Vally (2014) also reported that in some cases, the violation of human rights comes from people in

positions of authority. These people are supposed to uphold the rights of these children with regards to education, but instead play a role in violating the rights. Of importance from the study by Hlatshwayo and Vally (2014), was that the migrant children and their parents are not aware of their rights with regards to missing documentation and the right to education, thus resonating with areas of interest in my study and the questions that I ask in my data collection tools.

This section focused on the South African experiences of children without legal identification documents in South Africa. It was noted that children without legal documentation could be children born to South African parents without legal identification documents or illegal immigrant parents. The presence of most immigrant children was a result of the influx of immigrants into South Africa. The reviewed literature findings showed that some immigrant children without legal identification documents were excluded from school due to the requirements of the GDE online admission system. There were contestations over the admission of learners without documentation among the constitution of South Africa, national education legislation, the Refugee Act, International treaties, Home Affairs and schools. Of the cases referred to the High Court in 2019, the High Court ruled in favour of the children, nevertheless there remains inconsistencies in the admittance of children in schools. Children without legal identification documents who find themselves in schools often experience exclusion and trauma due to xenophobic tendencies, and this negatively interferes with their quality of education, and in addition to that they are often denied learner support materials and thus do not enjoy full participation in learning. Parents of these children are equally traumatised and fear approaching the relevant authorities due to missing identification documents. Failure to consult with the relevant authorities perpetuates the exclusion and denial of full participation in schools of their children. The xenophobic tendencies were traced back to when the South African Government granted amnesties to refugees in the 1990s giving these refugees some rights enjoyed by citizens. This is further accentuated by the influx of immigrants due to various socio-political and economic hostilities in their native countries. Consequently, this status quo has caused competition for resources and services which are legally meant for SouthAfrican citizens.

Similar studies outside South Africa show that the experiences of children without legal documents in different parts of the world are mostly similar, although there may be some differences due to unique contextual factors such as policy and refugee status among other

reasons. The section below focusses on the international experiences of children without legal documents.

### 2.8 Experiences of immigrant children in OECD countries

This section discusses some of the findings of children without documentation in the Organisation for Economic Cooperation and Development (OECD) countries. These findings indicate that the experiences of children without legal documentation are almost similar despite the children being in different geographical areas, and hence some of the experiences of these children can be generalised across populations. OECD countries refer to a group of countries that have a market-based economy and work together to build policies for sustainable economic growth.

The first international study that I focus on traces the origins of migration and educational attainment of immigrant children in OECD countries. A study by Dustmann and Glitz (2011) noted that migration can be traced back to about 2 million years when humans were organised into hunters and gatherers with a nomadic lifestyle. After the abandonment of hunting and gathering, social and political structures, based on nomadic forms of economy were built, but people still migrated due to natural disasters and human-made circumstances such as unfavourable economic aspects or political and religious persecution. In addition to the reasons for migration mentioned earlier, Dustmann and Glitz (2011) argued that, based on the OECD countries that they studied, the desire to attain an education was a major trigger of migration as opposed to the desire for work and higher wages. The countries involved in the study were Australia, Canada, France, Germany, Italy, Netherlands, Spain, Switzerland, UK and the United States. Dustmann and Glitz (2011, p.329) pointed out that education was the main "determinant of wages, both in the country of origin and the potential destination country," hence the high figures of foreign students in the host countries that they studied. Another contributory factor for the high immigrant numbers in host countries that Dustmann and Glitz (2011) noted, was that migration is a long-term process, and as such many immigrants bring their children with them and/or find families in host countries.

Migrants in the UK in 2009 in this study, reported that migration was informed by the desire to pursue education. According to Dustmann and Glitz (2011), some countries such as Australia, have taken education as a tradeable good, and international education is their third largest export after coal and iron ore. This is crucial in explaining why some people migrate to

find better education, but their hopes are not achieved when they are marginalised and excluded from accessing education due to missing identification documents.

The study by Dustmann and Glitz (2011) is related to my study in the sense that it centres on the education of immigrants in host countries. The authors noted a link between the underachievement of immigrant children and the educational achievement of their parents, and therefore argue that low education attainment of immigrant children is not an indicator of the host country's failure to educate the immigrant children, but a reflection of parental educational background of the immigrant parents coupled with the immigration status of the parents. Parents in the study by Dustmann and Glitz (2011) who had permanently migrated, tended to invest more in the education of their children, and the parents who had temporarily migrated did not invest much in the education of their children. In addition to the influence of parental educational background, Dustmann and Glitz (2011) postulated that immigrant children are affected by institutional contextual factors and the support structures of the host countries. School contextual factors such as national school admission policy and lack of fluency in the host country language of instruction, showed proficiency gaps in mathematics in Germany, Netherlands and Switzerland.

The confluence between this study and my study is the exclusion of children from school due to the absence of legal identification documents. This study resonates with the study by Hlatshwayo and Vally (2014) in acknowledging the influence of contextual factors, particularly the language barriers in the learning of immigrant children, which stands out to be an exclusionary aspect of immigrant children in learning. Peculiar to the study by Dustmann and Glitz (2011) is the correlation between the parents' level of education and their legal status in the host country. The argument put forward by Dutsmann and Glitz (2014) is the correlation between parents' educational level and attachment to their children's education. Parents who have attained higher education and have a legal status in a country tended to value and invest more in the education of their children. Although Dustmann and Glitz (2014) focused on parents' educational levels and the effect on children's performance, which applies to all parents and children, irrespective of their documentation status, it is worse for children who are undocumented and whose parents are without access to education.

### 2.8.1 Canada: Institutional invisibility

Another study focusing on institutional invisibility and the education of children without documentation is a study by Meloni, Rousseau, Richard-Guay and Hanley (2017), that

unearthed the often unwritten and ambiguous norms and practices enshrined in the social, legal and political aspects of people living without legal status in Canada in 2009. In 2009 about 200 000 to 500 000 people without legal status were estimated to be in Canada with an estimate of 3 000 of them being minors. The project was undertaken from unexpected findings in the sense that the initial aim of the study was based on access to health care for undocumented immigrant women and children. During data collection it emerged that in addition to health problems, education for children without documentation was an urgent problem that needed to be addressed sooner than the health issues, hence projecting the importance of education in children, even those without legal documentation. The findings showed that parents experienced multiple problems such as paying high tuition fees because the children were not residents. In some cases, school administrations and families did not know what documents were required for children to gain access into schools or what the existing policies were. In some cases, children without legal documents were registered, but were considered unofficial, and they were denied their final diploma, hence the children were physically present at school but not formally recognised. This finding resonated with the findings by Ackermann (2018) discussed above. The mothers of these children were physically distressed which prompted the researchers to act with a sense of urgency and to shift their focus from health access to educational access by immigrant children. This showed how in addition to access to health facilities, education of children, including immigrant children, was highly prioritised inCanada, and that this could also be the general sentiments elsewhere.

The researchers noted that the absence of legal status was a result of a number of reasons that included the tightening of immigration policies and negative public opinion which consequently jeopardised access to social services such as education, leading to exclusion from social rights. According to Meloni et al. (2017), in Canada, under the Quebec law, access to public schools for all minors is a right and a requirement, and free education is only enjoyed by legal residents. There are different categories and classification of groups of people such as Canadian citizens, asylum seekers and foreign workers, however the group of "undocumented children" is not mentioned by the law, and according to Meloni et al. (2017) this raises ethical issues about which children should have the right services if some groups are considered as undeserving of social services on the basis of their status as non-citizens. In addition, Meloni et al. (2017) noted that the screening of deserving children as stipulated by policies and law may be divergent from broader government policies. These informal norms are based on "covert preferences" which are interests that are not clearly articulated. Therefore,

"undocumented children" are not explicitly constructed by the law as undeserving subjects, neither are they portrayed as deserving (Meloni et al., 2017, p.16), hence these children are not catered for and there is no uniformity in catering for their needs as a result of lack of clarity on where they belong and what rights and privileges they are entitled to. This observation links up with my study since I was interested in knowing which children in South Africa should havethe right to education and which children should be denied the right to education.

After identifying barriers to education for immigrant children, there were engagements with different stakeholders directly involved in education and the protection of children's rights. These stakeholders included the Ministry of Education representative responsible for security and development of the child, four boards in the Montreal region responsible for children registration in schools, planning, supervision, evaluation and support of the children, and finally, agencies responsible for security and development of children. The discussions took place off the record and there was no mention of undocumented people, their rights and entitlements thus creating a vacuum at institutional and higher levels that the problem does not exist. School boards felt that it was a financial burden to their system's capacity because there was no additional funding for undocumented students. Different institutions adopted tailor-made practices to deal with the issue whilst other schools totally refused access to education for children without legal documentation. Commenting on the permanent code which is issued by the Ministry of Education to ensure that students credits will be recognised to get a diploma, one school board member commented that "if you do not have a permanent code, simply you do not exist" Meloni et al. (2017, p.21). This shows the importance of identification as prescribed by the host country. Absence of identification is tantamount to non-existence despite the physical existence of the person and absence of identification can lead to failure to achieve and enjoy human rights as was the case of the immigrant children in my study.

### 2.8.2 Guatemala: Mental health

A somewhat similar study to that of Dustman and Glitz (2011) and Meloni et al. (2017) is a study by Kugler and Price (2009). In addition to focusing on contextual factors such as language as a hindrance to the learning of immigrant children, this study examined the mental challenges faced by immigrant and refugee learners and their parents in Guatemala in 2007. The study illuminated how *Wafa*, (a pseudonym) showed no interest in learning and how *Juan (a pseudonym)* lacked social skills and easily exploded violently even without provocation. According to Kugler and Price (2009), such behaviours are indicators of common challenges

amongst immigrants and refugees and are often misinterpreted as indiscipline, yet they are indicators of depression in children or parents as they try to adjust to a new environment. These indicators of depression have a direct negative impact on the mental health of the children. The study by Kugler and Price (2009) focused on immigrant children in terms of their educational experiences in host countries as well as the experiences of the parents, including their feelings and experiences when they failed to gain access to education. The children behaved in a hostile manner and the parents were traumatised. These feelings of trauma were also noted by findings from the study by Hlatshwayo and Vally (2014) discussed above.

One aspect of these experiences was mental health, and this was noted by Kugler and Price (2009) as essential to learning and crucial to the social and emotional development of a child that consequently has an impact on the academic success of the child. Furthermore, Kugler and Price (2009) highlighted that the challenges of immigrant children go beyond learning a new language. In addition to language barriers, the trip to the host country can be a gruelling experience and the entire family can be isolated in the new country with limited financial resources. Immigrant children often experience repeated violence or are exposed to lower academic achievement and some of these children live in refugee camps under inhumane conditions. Most of these children disappear into the background when the No Child Left Behind (NCLB) holds schools accountable for the academic achievement of these very students. Several organisations were put in place in Guatemala to help the immigrant families with mental health issues. Kugler and Price (2009, p.2) argued that mental health was a delicate topic because "there are no phrases to define mental health in most home languages of immigrant children." It is also evident that mental health issues and not having access to a language is felt most acutely by children and parents who are undocumented.

There were also stereotypical views of immigrants as they were viewed as drains on resources. The international stereotypical label attached to immigrants, and the idea of them being a drain on resources, is similar to what Tlou (2011) also noted about immigrants in South Africa when they were described as leeches that benefit from resources meant for the citizens, further solidifying the idea that the experiences of immigrants in South Africa regarding access to resources was similar to international views, and therefore generally applicable across contexts. The perpetuation of trauma in immigrants was congruent to Idemudia, Williams and Wyatt (2013) who noted that immigrants experience pre-migration trauma in native countries, mid-migration trauma that takes place during migration, and post-migration trauma that takes place

upon arrival in the host country. The poor mental health for the immigrants upon arrival is further perpetuated by limited social and emotional difficulties in host countries (Idemudia, Williams and Wyatt, 2013).

Concisely, international studies by Kugler and Price (2009), Dustmann and Glitz (2011) and Meloni et al. (2017), resonate in noting that children, including undocumented children, face barriers in education due to varying contextual factors. For Dustmann and Glitz (2011), barriers are a result of parental level of education, and migration status of the parents, whereas for Meloni et al. (2017), barriers are a result of the unaccommodating legal and political aspects of host countries' policies and laws. The study by Dustman and Glitz (2011) also noted how some immigrants enjoy education in host countries and how in countries like Australiaeducation is a tradeable good enjoyed by immigrants just as the citizens in the host countries. However, for Meloni et al. (2017), children without legal documentation are not catered for and are not mentioned in Canada during the period of their research. The two studies are relatedto my study in the sense that they focus on the barriers to education that are experienced by children without legal documentation. In the OECD countries and Canada, as a result of policies and regulations around children without documentation, and their access to education, which can also be comparable to an extent to what transpires in South Africa. Concisely, the experiences of trauma, isolation, deprivation and exclusion of refugee, migrant and immigrantchildren without legal identification documents, and their parents in other parts of the world, is somewhat similar to what children in South Africa experience.

The discussion so far has focused on the experiences of children generally and their implications for children without documentation whose experiences are worse than children in general in South Africa and internationally. The common findings were that the experiences and access to resources by children without legal identification documents were exclusionary and were characterised by various challenges of varying degrees but all speak to a violation of human rights. Despite the varying geographical and contextual environments, the experiences of children without legal identification documents are similar. Children without legal identification documents are not even in the lens or views of citizens. Generally, there is little to no planning for the education for such children. In cases where there is some form of planning for these children, there is no implementation because of the conflicting nature between what should be done for children without legal identification documents and the laws of a given country. This foregrounds the strong relationship between access to resources and services on one hand, and citizenship on the other hand, as shall discussed in the next section.

### 2.8.3 Experiences of refugee children and families in the United States of America

Similarly, Adams and Santos (2022) acknowledged the systematic obstacles that prevent refugee families in the U.S from participating completely in their children's education and from having full access to special education programs. These barriers include but are not limited to, lack of experience working with refugees, not having the basic knowledge of the unique journey refugee families live through when they move from their country of origin to the U.S., the scarcity of effective professional development programs for professionals to work with refugee populations and the traumatic events of these families compared to other families. Nevertheless, Adams and Santos (2022) asserted that, "refugee families deserve to have their experiences and individual voices represented in order for our systems and programs to develop and implement effective, culturally responsive services" (Adams and Santos 2022, p. 361).

## 2.9 Citizenship and access to resources and services

The studies reviewed above indicate that there is a notable relationship between citizenship and access to resources. Citizenship is defined as rules of membership in a defined territorial unit and rights and responsibilities associated with this membership in most liberal democracies (Basok, 2008). Citizens of South Africa and immigrants — regardless of status – are not entitled to the same rights, privileges, duties and obligations. The South African Constitution states that all citizens are equally entitled to the rights, privileges and benefits of citizenship and are equally subject to the duties and responsibilities of citizenship. This statement makes it clear that there are benefits and privileges meant for citizens. Citizenship is therefore the basis on which nationals are entitled to the provision and enjoyment of services, as noted by Brown (2016, p.50) that, "a person's right and ability to access human rights protections often depend on whether or not they are a national or citizen of a country they are in." Furthermore, the South African Immigration Act in the Government Gazette (2002, p.33) (emphasis added) Article 25 (1) states that "… the holder of permanent residence permit has all the rights, privileges, duties and obligations of a citizen *save* for those rights, privileges, duties and obligations which a law or Constitution explicitly ascribes to citizenship." In essence, this means that there are rights, privileges, duties and obligations that permanent resident holders enjoy that are particularly not enjoyed by those without permanent residence permits.

A new development in the Department of Home Affairs is that the South African Department of Home Affairs now issues a confirmation of birth or a notice of birth to children born to foreign nationals. This is confirmed by a report in the Cape Argus by Davids (2017), where

Thabo Mokgola, reportedly the spokesperson of Home Affairs in Cape Town, acknowledged that, "for record purposes… a notice of birth" was issued for children born to foreign parents. Commenting on the same issue in the same article, an attorney, Joy van der Heyde, said that "A notice of birth is not an identity document on which the child can be registered at school or obtain social grants. This notice therefore does not assist the child in being able to enforce his/her rights" (Davids, 2017). From the attorney's comments above, it can be argued that a notice or confirmation of birth is confirmation of birth but does not guarantee citizenship, therefore a notice of birth is not a legally binding document and thus does not assist children in accessing and enjoying their rights or services because they remain non-citizens.

This position concerning citizenship is not only prevalent in South Africa. In other countries such as the United States, membership privileges are granted to people born in their territories and those who have acquired legal status. Most states deny rights to those who have not been granted legal permission to reside within their boundaries (Basok, 2008). Access to citizenship has become the primary mechanism to access social and economic resources and this has resulted in new discriminatory practices (Gordon, 2010).

In light of the argument that citizenship is the primary mechanism to access certain resources and services, immigrants are left marginalised because "whilst immigrants are theoretically entitled to rights and social protection, the status of or threat of being classified as 'illegal' in practice revokes significant human rights. It also establishes illegal immigrants as a vulnerable marginalised population within South Africa" (Mosselson, 2010). Evidence from other parts of the world and the newspaper mentioned earlier by Ramjathan-Keogh (2017), supports and clarifies that some children in other parts of the world including South Africa are denied access to educational services because they did not have legal identification documents proving that it is indeed difficult to access services and enjoy rights without legal identification documents.

The discussion above has shown that there is an intricate relationship between citizenship, which is denoted by specific legal identification documentation, enjoyment of rights and access to resources and services. Although a permanent resident permit also allows access to many services and resources, it has its limits as there still remain some services meant for citizens despite the availability of a permit. It is therefore important to further scrutinise human rights in this regard and link them to the right to education for all children, and inclusive education being the main focus of this research.

# CHAPTER 3: CHILDREN'S RIGHTS, HUMAN RIGHTS AND INCLUSIVE EDUCATION

The previous chapter outlined the legal and policy provisions regarding children without documentation. It also provided an account of the some of the experiences of undocumented children in other countries such as the OECD countries and Guatemala. It was also noted that although in some cases these international countries tend to cover experiences of immigrants and refugees, they do not always cover undocumented children, who remain invisible and excluded.

In this chapter, I argue that the complexities of human rights and undocumented children render education for undocumented children exclusionary. I show that even if schools may view themselves as inclusive education, and even if the South African system projects itself as based on inclusive education, the experiences of undocumented children indicate that educational systems remain exclusionary if undocumented children do not have access to education and who are denied their human right of education.

I first begin with explaining education as a human right, and the various legislations that inform it internationally and in South Africa. I then look at the experiences of inclusive education in South Africa and show how the experiences of undocumented children negate the claim that all children have access to education in South Africa. I also argue that for inclusive education to be considered as inclusive, it is crucial that all children, no matter who they are, should be able to access education.

## 3.1 The Origins of Human Rights

Inclusive education recognizes the right to education for all children based on human rights. This derives from the provision of human rights in the Universal Declaration of Human Rights.

The origins of human rights are informed by the acts of brutality committed in World War 1 and World War 2. The modern international human rights, and their making it into the United Nations Charter, can be traced back to a number of bills and declarations that were aimed at limiting the abusive powers of rulers, and it laid the foundations for democratic governments (Leib, 2011). These declarations and bills include the Magna Carta of 1215, Petition of rights in 1628, The Bill of Rights of 1689 (Cornescu, 2009), the United States Declaration of Independence of 1776, the French Declaration of the Rights of Man and of the Citizen of 1789, and the Bill of Rights of the United States Constitution of 1789 (Leib, 2011, p. 45).

The Universal Declaration of Human Rights (UDHR) is a document that was drafted by representatives of different countries at the United Nations General Assembly in 1948 and proclaimed by the United Nations (United Nations General Assembly, 1948). The document set aside the fundamental human rights that had to be universally protected and it paved the way for other human rights treaties by translating it into more than 360 languages (United Nations, 2015).

The UDHR foregrounds rights as universal regardless of time, place and citizenship status; however, such a stance is debatable for several reasons. The realisation of the universality of rights is regarded as utopian in the sense that "in spite of their international commitments, many states gravely disregard the human right of their residents" (Montero, 2017, p.68). If states can disregard the rights of their residents, it is of concern to imagine what happens to the rights of immigrants, refugees and undocumented children in this world that has been reduced to a global village due to migration.

Rights are protected by national and international conventions, treaties and declarations so that the basic freedoms entitled to each individual are not violated. There are several instruments that have been set up to help protect human rights as discussed above. Although countries can ratify these international conventions, treaties and declarations that protect human rights, it has to be noted that they are not necessarily law. The constitution of any given country is the highest law, and no one is above the constitution. The constitution dictates and limits who has rights to services and resources rights and who does not have these rights and privileges. With that being said, it is apparent that there are limits to what non-citizens can claim as rights when they are in a foreign land, thus making it difficult to receive the same treatment as citizens in terms of services and resources.

The above is further intensified by the origins of human rights. When the UDHR was originally formulated "…it was soft law, it was aspirational, not legally binding…" (Brown, 2016, p.34). The declaration was later complemented by two covenants, the International Covenant on Civil and Political rights, and the International Covenant on Economic, Social, and Cultural Rights, both of 1966. These covenants are legally binding on member states that have signed and ratified those covenants (Brown, 2016). A convention is binding because according to the Canada Heritage (2017, para 12) "a convention (covenant, treaty) differs from a declaration in that a convention is an agreement whereby countries agree to bind themselves under international law to conform to its provisions. Countries bind themselves in this way through

a process of ratification or adhesion to the convention." Regardless of the legal aspect of conventions, it has been stressed earlier that there is no law above the country's constitution, and besides, rights by nature are very complex, and thus their applicability and generalisability is debatable. Below I discuss the classification of rights.

### 3.2 Classification of rights

Rights are very broad and can be classified into three main classes, namely, first generation rights, second generation and third generation rights. The three generation rights were formerly established by Karel Vask in 1979 (Reid, 2014) and according to Cornescu (2009), the first-generation rights are inherent human rights that ensure co-existence of individuals by giving individuals freedom that enable citizen participation. The rights include the right to life, the right to privacy and the right to fair trial among others. These rights are enshrined in the Universal Declaration of Human Rights and the International Pact of Civil and Political Rights. In consensus Domaradzki, Khvostova and Pupovac (2019, p.425) resonate that the first-generation rights "have a history of accenting liberty" by granting civil and political rights.

The second-generation rights, also known as "equality rights," which were a result of industrialisation and accompanying social and economic inequalities (Domaradzki, Khvostova & Pupovac, 2019, p.425), emanate from international law and they include the right to work, freedom of association and the right to education. As stipulated by Cornescu (2019, p.4) achievement of "these rights require institutional support from the state." The right to education and social rights belong to the second-generation rights.

The third generation of human rights, also known as solidarity rights, is the most recent and vague in content because they require responsibility which is beyond the nation (Domaradzki, Khvostova & Pupovac, 2019). These rights include environmental and developmental rights in addition to self-determination, humanitarian assistance and the right to peace among others. The third-generation rights are classified as soft law because they are not legally binding, however, they are slowly gaining recognition due to heightened awareness and growing globalisation (Reid, 2014).

The first, second and third generation rights are linked such that one set of rights cannot be realised if the other set of rights has not been met and granted. This was also noted by Carrim (2006) who posited that human rights cannot be delinked from each other nor take away some rights and allow others.

Additionally, the International Covenant on Civil and Political Rights committed states to respect the civil and political rights of individuals. These rights encompassed the right to life, freedom of religion, freedom of speech, freedom of assembly and electoral rights. Complementing the International Covenant on Civil and Political rights was the International Covenant on Economic, Social and Cultural Rights which sought to help observe the ideals of a free human being achieved through observing and respecting economic, social, cultural, civic, and political rights.

### 3.3 Children's rights and conventions

#### Convention of the rights of the child

Several conventions were developed to expand the protection of rights, specifically for children. The major protection of children's rights was through the Convention on the Rights of the Child of 1989. This convention was adopted in 1995 by 178 countries and it "spells out the basic human rights to which children everywhere are entitled" (Nieuwenhuis, 2007, p.33). It is based on the premise that a child should be fully developed in an atmosphere of happiness and ideals proclaimed in the Charter of the United Nations in the spirit of peace dignity, freedom and equality (Robinson, 2003). The Convention of the Rights of the Child outlines the civil, political, economic, social and cultural rights of children. It is important to protect the rights of children because "the child by reason of his physical and mental immaturity, needs special safeguards and care including appropriate legal protection before as well as after birth" (UNICEF, 1989, p.1). A child in the context of this Convention is anyone below the age of eighteen unless stipulated otherwise by the law applicable to the child. The Convention clearly states that all decisions and actions by public or private institutions should be informed by the best interests of the child as described by Article 2 of the Convention below.

Article 2 of the Convention states that,

> "Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his parent or legal guardian's race, colour, sex, language, religion, political order opinion, national, ethnic or social origin, property, disability, birth or other status" (UNICEF, 1989).

Article 28 of the same Convention further compels states to recognise the right of the child to education with the view of achieving this right based on equal opportunity and make primary education compulsory and available for all. South Africa is a signatory of the UN Convention on the rights of the Child and Crush and Tawodzera (2011, p.4) noted that "lest it be assumed that these rights only apply to citizens, the Convention is very clear that these rights to education applies to all children in a country, regardless of their parents or guardian's nationality or legal status." This emphasis articulates that nothing should stand in the way of children enjoying their right to education, especially in a country that has signed the convention. Therefore, South Africa, by virtue of being a signatory of the UN Convention on the rights of the Child, is expected to uphold the rights of all children. Debates and criticisms on violation of human rights arise when research and newspaper articles report otherwise.

In addition to rights of all children, De Wet-Billings and Mabetha (2023) claimed that, South African law guarantees the right to education for disabled refugee children. These kids have to deal with managing their disability in addition to living in a foreign nation. However, children of refugees with disabilities who do not receive a high-quality education will always encounter obstacles in their lives, such as exploitation and poverty. The cross-sectional study by De Wet-Billings and Mabatha (2023) conducted on 5,205 disabled refugee children, using data from the Community Survey of 2016 concluded that, less than 5% of refugee children with impairments attend school, according to descriptive statistics. Additionally, there are variations based on sex, sociodemographic traits, and province of residency.

**Economic, social and cultural rights**

Furthermore, the international standards of education, specifically the International Covenant on Economic, Social and Cultural Rights of 1966, identified four essential components of the right to education. These components were availability, accessibility, acceptability and adaptability, and were later developed by Katarina Tomasevski, former UN Special Rapporteur, into the 4A Framework. This framework is accepted by the UN and human rights organisations as providing a clear description of the scope and content to basic education. It stipulates that government laws, policies, budgets and programmes must ensure that education is available, accessible, acceptable and adaptable for all children (Martin, 2014). Availability means that educational institutions should be available in sufficient quantities in terms of buildings, sanitation facilities, safe drinking water and human resources. Accessibility entails

that education is accessible to all without physical and economic discrimination. Acceptability means that education ought to be of good quality, relevant and culturally appropriate, and finally, adaptability means that education should be flexible to the needs of changing societies and responding to the social and cultural settings (Oidel Corpus of Rights to Education, 2017, p.33). Education that befits the 4A Framework should therefore satisfy availability, accessibility, acceptability and adaptability for all children in any given context regardless of their documentation status. There are several other conventions that are aimed at protecting the rights of migrants discussed below. It is crucial to note the never-ending conflict between some aspects of these conventions and some aspects of a country's constitution. This is in the sense that these conventions cannot override the social contract between citizens and those that they put in power. Those in power are obligated to protect and cater for the citizens of their country in terms of services and resources. These services can then be extended to other people who are not citizens only if the social contract has been changed, which no country is prepared to do. Therefore, if social contracts are exclusionary, then exclusion in all aspects of life is going to be registered worldwide.

**Conventions for non-nationals**

Besides conventions protecting the children's rights are other conventions protecting the rights of non-nationals. I will focus on a few that are related to my study. Firstly, the Convention Relating to the Status of Refugees (28/07/1951), wherein Article 22 (2) stipulates that "The contracting states shall accord to refugees treatment as favourable as possible as in any event, not less favourable than that accorded to aliens generally in the same status" (Oidel Corpus of Rights to Education, 2017, p.33). Secondly, the Convention to the Status of the Stateless Persons (28.09.1954), wherein Article 22(2) states that "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 circumstance with respect to education other than elementary education and in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degree, the remission of fees and charges and the award of scholarships" (Oidel Corpus of Rights to Education, 2017, p.35). Thirdly, the International Convention on the Elimination of All Forms of Racial Discrimination (21.12.1965), wherein Article 5 points out that "states undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(e) Economic, social and cultural rights in particular

(v) The right to education and training" (Oidel Corpus of Rights to Education, 2017, p.35).

Part III: Human Rights of all Migrant Workers and Members of their families, Article 30 states that "Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the state concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in state of employment" (Oidel Corpus of Rights to Education, 2017, p.35).

Having outlined the above conventions, it is important to note that the universality of rights is debatable and limited seeing that some of the expectations and obligations from the conventions only apply to countries that grant refugee status to their migrants and that translatesto these countries being responsible for the welfare and upkeep of the refugees. The reverse isequally true for countries that that do not grant a refugee status to migrants in their country. Countries that do not grant a refugee status to their migrants are not compelled to offer basic services to the migrants, but instead, the migrants blend into the community and have to fend and access resources and facilities for themselves.

### 3.4 Human rights declarations

In addition to the above discussed conventions, there are declarations in place to recognise the universal principle of rights. I will focus on a few of them that are applicable to my study. According to the Canada Heritage (2017, para 9), "a declaration is a statement of principle rather than an agreement by which countries bind themselves under international law. Declarations also differ from conventions in that declarations are not subject to ratification by countries, and do not require countries to submit reports on their compliance." These declarations include the "Declaration on the Human Rights of Individuals who are notNationals of the country in which they live." Article 8 of this declaration states that individualswho are not nationals but lawfully living in the territory of the state shall enjoy, in accordancewith the national laws, the following rights, subject to their obligations under Article 4: (1) "The right to education (…) provided that they fulfil the requirements under the relevant regulations for participation and the undue strain is not placed on the resources of the state" (Oidel Corpus of Rights to Education, 2017, p.33). A closer analysis of this article clarifies thatthere are limits of rights to individuals who are not nationals, and the strain of resources is emphasized. This acknowledges that in some cases, non-nationals can put a strain on the resources meant for

nationals, hence the failure to cater for non-citizens in some sectors of resource and service provision. In addition, it also shows that the rights afforded to people whoare non-citizens should be in agreement with the host country's laws, thereby highlighting thatdeclarations are not laws per se and that declarations are overridden by a country's laws enshrined in the country's constitution. Furthermore, although states that have bound themselves to these declarations are not expected to submit reports on their compliance to the declarations, they are expected to fulfil these declarations. Conflicts, tension and labelling of countries as non-compliant to the declaration arise when the actions of the countries contradictthe declarations.

After having discussed the human rights and related debates I will move on to motivate why a human rights-based approach to inclusive education was chosen for this study. Inclusive education is principally based on human rights because it recognizes the right to education for all children based on equality. This principle and recognition draw on the provision of human rights in the Universal Charter of Human Rights of the United Nations, and which have been incorporated into inclusive education.

### 3.5 Inclusive Education: A human rights discourse

The dawn of inclusive education as a human rights discourse intensified following the 1st World Conference on Education for All in Jomtien, Thailand in 1990 (Miles & Singal, 2010). This conference was concerned with access to universal primary education. The conference acknowledged the marginalisation and vulnerability of learners worldwide and paved the way towards achieving Education For All (EFA). Education For All was launched at the World Conference on Education For All in Jomtien, Thailand in 1990 by a coalition of United Nations Educational, Scientific and Cultural Organisation (UNESCO), United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), and the World Bank. This coalition committed to six goals that included the following: "expansion and improvement of comprehensive early childhood care and education; ensure that by 2015 all children, particularly girls and those belonging to ethnic minorities have access to and complete free and compulsory primary education of good quality; ensure that the learning needs of all young people and adults are met through equitable access to appropriate learning and life skills programs; achieve a 50% improvement in adult literacy by 2015; Eliminate gender disparities in primary and secondary education by 2005 and gender equality by 2015; Improve all aspects of the quality of education so that recognised and measurable learning outcomes are achieved by all" (World Bank, 2014, p. 24).

To ensure equalisation of opportunity for all children, including children with disabilities, a

call was made to a new Framework of Action that would respect human dignity and ensure the exercise and enjoyment of the right to education. Representatives from 92 governments and 25 international organisations met at the World Conference on Special Needs Education in Salamanca, in Spain in 1994, and adopted this new Framework of Action which called for education inclusion to be the norm in schools by accommodating all children Centre for Studies on Inclusive Education (2020). Governments were called to give the "highest policy and budgetary priority" to improve education services so that all children would be included in education despite differences or difficulties. Governments were encouraged to adopt the policy and principle of education by enrolling all children unless there were compelling reasons for not doing so. In addition, governments had to encourage exchange programmes with other countries with inclusive schools and to ensure collaboration, and the parents and community bodies for people with disabilities to be involved in planning and decision making. Finally, initial and in-service teacher training were encouraged to address the provision of inclusive education. Besides the above call on governments, the Salamanca Statement also encouraged the international community, specifically UNESCO, UNICEF, UNDP and the World Bank, to endorse the special needs education.

The Salamanca Statement of 1994 envisaged that inclusion and participation are essential to human dignity by advocating the following:

> "Regular schools with this inclusive orientation are the most effective means of combating discriminatory attitudes, creating welcoming communities, building an inclusive society and achieving education for all …" (UNESCO, 1994, p.3).

From the above quotation, it can be argued that the Salamanca Statement was against the backdrop of upholding human rights, specifically the right to education for everyone. Finally, the Jakarta Declaration on the Right to Basic Education (2005) emphasised a human-rights-based approach to education guided by fundamental principles of education (Marishane, 2021). Education for All was closely linked to the development of the Millennium Development Goals (MDGs) to oversee the provision of learning opportunities and lifelong learning as discussed in the next section.

### 3.6 Millennium Development Goals

The Millennium Development Goals were a comprehensive global agreement aimed at reducing poverty and human deprivation through collaborative action (UN, 2000). At the beginning of the second millennium, world leaders met at the Millennium Summit in

September 2000 to adopt the Millennium Declaration. World leaders from 189 countries met at the United Nations headquarters to set up the MDGs, a development framework for the world for the next 15 years (UN, 2000). The framework was made up of measurable goals and timed objectives set to promote awareness, accountability and to give feedback on the MDGs (Sachs, 2012). The MDGs consisted of 8 goals as follows: "Goal 1. Eradicate poverty and hunger; Goal 2. Achieve universal primary education; Goal 3. Promote gender equality and empower women; Goal 4. Reduce child mortality; Goal 5. Improve maternal health; Goal 6. Combat HIV/AIDS, malaria and other disease; Goal 7. Ensure environmental sustainability and finally, Goal 8. Develop a global partnership for development" (Hulme, 2009).

Despite substantial achievements registered in the world, there remain millions of people who are still left behind in development as they still live in poverty with no access to basic services. Fehling, Nelson and Venkatapuram (2013) claimed that although significant progress has been registered in health and well-being, about 15.5 million people still suffered from hunger. The UN singled out conflict as the greatest threat to human development.

Several factors have been suggested as limitations of the Millennium Development Goals. These factors range from the formulation of MDGs, to implementation and measurement of achievements of the MDGs. According to Fehling, Nelson and Venkatapuram (2013) the MDGs were formulated by a few stakeholders, the triad, consisting of the United States, Europe and Japan, without adequate involvement of developing countries or taking the needs of developing countries into consideration. The MDGs are further criticised for being overambitious and unrealistic and the implementation and measuring of success of the MDGs were allegedly based on assumptions and poor-quality data. Despite the criticism of MDGs, progress was registered in some areas but there was a need to address some needy areas. A new set of goals was announced in 2012 known as the Sustainable development goals (SDGs) which will be discussed below.

### 3.7 Sustainable Development Goals

Sustainable Development Goals (SDGs) were formulated and adopted at the UN Sustainable Development Summit by all United Nations member states in 2012 to replace the MDGs. The SDGs contain 17 universal goals to end poverty and ensure that all people enjoy peace and prosperity by 2030 (United Nations Development Programme, 2018). Sustainable Development Goal 4 was a development informed by Millennium Development Goal 2 which was about achieving universal primary education by taking a step further to promote lifelong

learning (Chan & Manyozo, 2016). The 17 SDG goals are interconnected and out of the 17 goals, goal number 4 is to achieve quality education by aiming to get every child beyond primary school and to provide equitable and quality education. Sustainable Development Goal 4 states that it aims to "ensure inclusive and equitable quality education and promote lifelong learning opportunities for all" (Global Education Monitoring team, 2020). There are ten targets under SDG 4 and I will single out two targets that are closely aligned to this study. Target 4.1 makes reference to free primary and secondary education and aims to ensure that by 2030, all children should be able to complete 12 years of education. The education should be free, inclusive, and equitable and should be of quality without discrimination (Sustainable Development Goal 4 (SDG4) n.d., para. 3). Target 4.5 seeks to eliminate all discrimination in education. It specifically mentions the aim of ensuring inclusion and equality of education to all persons including migrants, indigenous peoples especially those who are in vulnerable situations or another status. Listed as vulnerable groups are persons with disabilities, indigenous peoples, ethnic minorities and the poor (Sustainable Development Goal 4 (SDG4) n.d., para. 3). Although the Sustainable Development Goals aimed to achieve equality and equity among people, they are criticized for being non-binding "being inconsistent, difficult to quantify, implement and monitor" (Swain, 2017, p.341). Resonating with Swain is Sayed and Moriarty (2020, p.210) who acknowledge that there exists challenges in developing and categorizing indicators and "there is a remarkable silence about how this agenda is to be financed." This is evident in many countries that are still depending on assistance funds for their education budget and some countries such as Malawi are facing challenges in implementing free primary education (Chan & Manyozo, 2016) yet they are expected to achieve 12 years of education for all children as per SDG 4.

The aspirations of the SDGs tie very well with Education For All (EFA) objectives in the context of globalisation and education. Yazil (2003, p.231) notes that "education under globalisation is no more a social product for social consumption rather it is a product for private consumption'' that continuously widens the gap between rich and poor and violates human rights in cases where immigrants are less entitled to fully participate in the society (Bagenstos, 2017). This is because the marginalised and the already vulnerable children are in most cases excluded from education. South Africa is a signatory to Education for All (EFA) and the UN Sustainable Development Goals that campaign to prioritize spending and measures to secure the rights of all children to basic education as a developmental priority, especially for the most vulnerable children (Martin, 2014). It is important to note that vulnerable children could be immigrant children or South Africans and undocumented children.

The context of ensuring equity and recognising diversity to ensure Education For All despite children's characteristics and circumstances was endorsed by the Incheon Declaration For Education 2030 that was adopted on 21 May 2015 in Incheon, Korea. According to UNESCO (2015) this declaration set out a new vision for education for the next 15 years. It was attended by 1600 participants from 160 countries. These delegates were from various organisations that ranged from the civil society, the teaching profession, youth and private sector. The Incheon declaration reaffirmed the vision of EFA of 1990 that was reiterated in Dakar in 2000. The vision was to transform lives through education, recognising the important role of education as a main driver of development in achieving the other proposed SDGs. UNESCO (2015) further asserted that

> "the vision was based on human rights and dignity, social justice, inclusion protection, cultural, linguistic and ethnic diversity and shared responsibility and accountability. We reaffirm that education is a public good a fundamental human right and a basis for guaranteeing the realisation of other rights."
>
> (UNESCO 2015, p.7)

The Incheon Declaration therefore sought to address all forms of exclusion, marginalisation and inequalities in access, participation and learning outcomes and claimed that no target should be considered met unless it had been met by all people. The governments of states were given the responsibility of implementation, collaboration, coordination and monitoring at country, global and regional level. This would be achieved through improved funding and technical advice with UNESCO coordinating the Education 2030 Agenda. Furthermore, the World Bank's Education Strategy 2020 proclaimed the right of all children to access education alongside the Universal Declaration of Human Rights and the Convention on the Rights of the Child (Vally & Spreen, 2012).

The argument that I put forward, after outlining and discussing the development of inclusive education, is that education is recognised as a human right that is the basis of realising other rights. Education should be presented and accessed by all people in a manner that is free from prejudice and discrimination, even on the basis of missing legal identification documents. Many states have participated in the formulation and adoption of global perspectives and declarations regarding the right to education, thus governments have a duty to ensure that all children have access to quality and equal education.

### 3.8 Inclusive education in South Africa

Inclusive education in South African draws on the Universal Declaration of Human Rights, the MDGs, SDGs, Salamanca Statement and the Incheon Declaration discussed above. However, in the South African context, the advent of inclusive education was against the backdrop of the apartheid historical context. Educational marginalisation and apartheid policies in South Africa had separated communities in all spheres of life with inequitable distribution of resources between White, Indian, Coloured and Black communities (Pather, 2011). Concurring with Pather (2011) is the Department of Education (DoE) (2001) which criticised the apartheid educational system for organising special education into two special entities that resulted in segregation of learners on the basis of disability. Access to schools was difficult for learners with disabilities coming from poverty—stricken families and white disabled learners were reportedly well resourced, and the reverse was true for black disabled learners. The emergence of inclusive education in South Africa in 2001 was therefore an attempt to dismantle the socio-political, personal and interpersonal dimensions of education that gave rise to a flexible and inclusive system of education (Engelbrecht, Oswald & Florin, 2006). Nevertheless, Dyson and Forlin (1999) argue that there is more to inclusion than the physical placement of learners with difficulties in mainstream schools. Dyson and Forlin (1999) state that in addition to physical placement of children in schools, there is a need to ensure the children's full opportunity for moral and social development.

Inclusive education in South Africa is a response to address learning barriers in the education system (Walton, 2011; Dalton, Mckenzie & Kahonde, 2012). In consensus, Florian (2008) echoes that inclusive education is generally understood as being part of a human rights agenda with regard to access and equity in education. White Paper 6 provides a framework for developing full-service schools and colleges as models of inclusive schools. This move was to cater for learners who were previously deterred by barriers such as race and disability to access education because of the inability of the education system or the training system to provide for these children's needs (DoE, 2001). According to White Paper 6, there was a need to strengthen special education by transforming all aspects of the education system to accommodate learning needs. This was going to be achieved through respecting and accommodating the learning needs of all children regardless of age, gender, ethnicity, language, class or disease. White Paper 6 clearly articulates the intention of the Department of Education in implementation of inclusive education as facilitating the inclusion of vulnerable learners and reducing the barriers to learning through targeted support structures and mechanisms that would improve the

retention of learners in the education system, particularly learners prone to dropping out (Department of Basic Education, 2016, p.11). White Paper 6 goes on to acknowledge the kind of environment that would be required to achieve its aims by stating that "The White Paper outlines how the education and training system must transform itself to contribute to establishing a caring and humane society" (DoE, 2001, p.11). A humane society is characterised by consideration and acceptance of all humans despite differences. A humane society affords all individuals equal access and opportunities to succeed in life. Thus, a humane society would acknowledge and accept differences, and in light of this research, a humane society would acknowledge the existence of children without identification documents for varying reasons and find ways to accommodate them so that they too can have access to education. Some of the ways that White Paper 6 put forward as ways of realising education for all is acknowledging that all children and youth can learn and need support, changing their behaviour and attitudes, acknowledging the inadequacy of policy and legislation (DoE, 2001).

In addition to White paper 6 being central to inclusive education is the Screening Identification Assessment and Support (SIAS) policy of 2014 that aims to provide a framework to standardise procedures to identify, assess and provide additional support to improve participation and inclusion in schools (Inclusive Education South Africa, 2019). This policy was aimed at learners who experienced barriers to learning as a result of disability, language, inflexible curriculum and the impact of poverty among other reasons. The support for these children had to include the School Based Support Team (SBST) and the District Based Support Team (SBST). This process of engaging and assisting learners facing barriers to learning was to ensure that no child was left behind and that all children were catered for as per their needs, hence achieving inclusive education.

Recent movements towards inclusive education regard it as a human right (Naicker, 1999). Resonating with Naicker (1999) is Swart and Oswald (2008) who posited that inclusive education entails recognition and valuing of human diversity within the education system. The notion of presence of all learners or access to education by all children seems to be a common denominator on how inclusive education is generally conceptualised. This ties in very well with what Florian (2008, emphasis added) termed rights to education as – *access* and rights in education as – *equity*. The South African Department of Education (2001) acknowledged that inclusive education had to do with recognition and respect of differences in learners beyond disability and stretched out to embrace age, gender, ethnicity, language, class and infectious diseases. For the purposes of this study, inclusive education is regarded as a system of education

that provides the most effective means of combating discriminatory attitudes to achieve education for all by ensuring access and participation of all children (Armstrong, Armstrong & Spandagou, 2011).

This section has outlined what the right to education means as a human right and has shown how this right has been reemphasized and reinforced in other international legislative and policy provisions as well as how they have informed inclusive education legislative and policy provisions internationally and in South Africa. Overall, inclusive education on an international level and in South Africa was meant to value human diversity and address barriers to education by promoting the accommodation and participation of all children regardless of differences. Therefore, inclusive education should facilitate the access to education for all children, including undocumented children. These children's right to education should be maintained, supported, and protected. The next section reviews debates and contestations on rights.

### 3.9 Debates around the right to education

There is a closely knit relationship between human rights, right to education and citizenship, and as stipulated by Thapliyal, Vally and Spreen (2013), the right to education is principal in securing other rights. Human rights are meant to ensure that all people are treated with dignity, enjoy freedom, and have access to services and resources. Education is a fundamental human right, hence governments are obligated to ensure education for all children in the county. All children, citizens and immigrants are entitled to education. The Lawyers for Human Rights' (LHR) stance in the phenomenon of "a child is a child" noted in Crush and Tawodzera (2011, p.8) that "…there should be no barrier to migrant children accessing the educational system in South Africa." The Constitution of South Africa, the national legislation, the Refugees Act together with international treaties guarantee the right to education for refugees and asylum seekers (Hlatshwayo & Vally, 2014). In addition to that, "the rights-based approach to education proposes a strategy of progressive realisation of the right to education, beginning with free compulsory education for primary education overtime, free and equal secondary education as well as equal access to free higher education" (Thapliyal, Vally & Spreen, 2013, p.213). Nevertheless, there are some limits and problems with the nature and limits of rights.

Human rights are the basic freedoms and values that every person enjoys just because they are human. However, I need to put forward that no country in the world gives rights to people who are not their citizens because governments are duty–bound, they are in contract only with their

citizens that have put them in power. Immigrants are covered in human rights on an international scale and cannot claim rights that the citizens in the host countries enjoy. Although human rights are not wholly legal (Freeman, 2017) they are essential because they make life worth living, ensure healthy relationships within communities and societies, promote personal progress and ensure a quality and better standard of life for everyone. Encompassed in the human rights is the right to equal treatment, which is crucial in two ways, firstly, to seek protection against discrimination, and secondly, to seek recognition of their separate identity and special rights aimed at their protection (Henrard, 2015). Furthermore, Carrim (2006) posited that there are basic assumptions of human rights and these justify the desirability of human rights. Firstly, Carrim (2006) postulated that human rights are relational, implying that human beings exist in relation to other people and their environment. Secondly, conditions of peace and stability are required in human beings' relations with others and their surrounding environment. Thirdly, human rights are a concept that describes the basic individual rights and collective rights required for human development. Fourthly, human rights are linked toequality, dignity, freedom, peace and finally human rights are desirable in themselves. Therefore, human rights stand out in protecting people and some scholars have argued that, inhalf a century of the human rights' existence, "the UNDHR has established itself as a reputable instrument of international law and politics" (Leib, 2011, p.48). Resonating with Leib (2011) on the political and legal nature of human rights and also claiming that human rights are socialis Carrim (2006, p.9). He contends that human rights are political and legal because they are articulated in the UNDHR of 1948 which has its origins "in the political, philosophical notionsof a 'social contract' that is necessary in regulating and governing societies." Rights cannot beclaimed if they are not encapsulated in constitutions and laws neither can they be claimed if not encoded in the social contract between the state and the citizens. Articulating further on human rights, Carrim (2006) argued that it is necessary but insufficient to project human rightsas political and legalistic because of the multiple literacies of human rights such as citizenshipeducation, environmental education, democracy education, anti-discrimination, and values education, and therefore human rights ought to be conceptually linked.

Human rights can be regarded as universal and positively impact on the quality of human life. On that notion, Weston (2002) postulates that human rights are a "… continuum of values or capabilities thought to enhance human agency and declared to be universal in character, in some sense, equally claimed for all human beings" (Weston, 2002, p.1). By this assertion, Weston (2002) acknowledges the limits of the universality of human rights whereas Muddiman (2000, p.18) asserts that human rights are "limitless and are meant to be enjoyed by all because

they are universal." Most human rights appear to be universal and taken into consideration on paper, but the reverse is equally true in reality because not all human rights are upheld, with special mention to the children's right to education in the light that some children are being excluded from attaining an education due to missing identification documents.

The central objection levied against the universality of rights revolves around the human rights origins. Human rights are regarded as having emanated from a Western origin and being characterised by cultural imperialism (Leib, 2011), and hence are regarded by some as not applicable across cultures. In addition, human rights are criticised for being formulated by 56 states that constitute less than one third of today's UN member states, although this had been addressed and universalised through the adherence to the declaration by all states (Constantinides, 2008). This criticism of human rights can be attributed to the reasons why some rights are not observed or are partially upheld in some situations. If rights are not upheld, gaps between human rights ideals and human rights realities emerge and generally people are not willing to acknowledge their part in creating the gap between human rights, but instead shelve the blame on economic reasons and ineffective institutions (Freeman, 2017) andpolicies. Furthermore, human rights are condemned by some scholars as a political tool that places importance on the individual and that may not be applicable across cultures in Africa and other parts of the world (Carrim, 2006; Lower, 2013) making it difficult for the rights to be generalised across people. Some scholars have deemed human rights as "a peculiarly late twentieth-century expression of political utopianism" (Lamb, 2019, p.103) making human rights a phenomenon that is regarded as idealistic or utopian.

This section has discussed the nature of rights from a perspective of them being viewed as empowering legal structures that serve to prevent and remedy wrong, however, research has shown that that is not always the case and one cannot be sure if international rights are not mere passing ideologies (Alderson, 2016). The concept of rights and its lack of universality, although debatable, negatively affects the realisation and upholding of some rights leading to some individuals failing to access basic human services such as health and education. It has also led to contestation of services and resources among citizens and non-citizens giving rise to xenophobia which was discussed above.

### 3.10 Section summary

This section focused on the experiences of children without legal identification in the educational arena. I began by focusing on the South African experience. Absence of

identification document makes it very difficult for children to participate in education due to statutory restrictions. Although some studies acknowledged that children without legal identification documents can access school as per the South African national educational legislation, there are still discrepancies and inconsistences between policy and lived experiences. In some cases, such children were provisionally admitted into schools and some parents resorted to sending their children to unregistered schools or to corruption to secure fake documents. On the other hand, international studies revealed that in countries like Australia, education is a tradeable good and contributes to major exports. International studies also disclosed that under-achievement of immigrant children was common in these countries because immigrant children elsewhere experience more or less common problems. These common problems ranged from exclusion due to policy, language, experiences associated with trauma, immigration policies, negative public opinion, screening and classifying of children as deserving and undeserving of social services on the basis of status as citizens or non-citizens. There were similarities between South Africa and Canada where children without legal documents were registered but considered unofficial. In South Africa, the children are provisionally registered but do not receive certification at the end of 12 years. In Canada these children were denied their final diploma. The situation of children without documentation is worsened by polices that are either non-existent or on how to cater for such children or the policies do not cater for these children at all.

I have reviewed literature in areas that affect the realisation and enjoyment of the right to education. The reviews covered who the immigrants are in South Africa, how and why they came to South Africa. Subsequently I focused on how the missing legal identification documents affect the enjoyment of the right to education in South Africa in light of the South African school admission and home affairs policies, which are to a certain extent contradictory. The experiences of children without legal documentation in South Africa and Southern Africa, OECD countries, Canada and Guatemala, were reviewed. It emerged that there is very little literature of children without documentation coming from privileged states where almost everyone is a citizen. If not a citizen, they could be refugees who are far more advantaged than immigrants, yet there are common challenges among children without legal documents in South Africa and elsewhere. In South Africa these problems are made unique and exacerbated by xenophobia. Debates about human rights and children without documentation were outlined and what explicitly stood out is that there is notable tension between human rights and conditions of their realisation. States are governed by a social contract which makes them responsible for their citizens, whilst children without legal documents and their parents claim

rights based on human rights statutory instruments whose universality is debatable, and are in themselves not legally binding. On the other hand, because hosting states have ratified these statutory instruments, they are obliged to adhere to the terms as dictated by the statutory instruments.

### 3.11 Conclusion

This chapter has discussed policy and realisations of rights following the UNDHR, policies and different country contexts. The argument that I arrive at is that all children have access tohuman rights and countries realise that violation of these rights is violation of the children's basic rights. Nevertheless, in light of human rights and basic freedoms, these are entitled to citizens of a country by their respective states. These states are duty-bound and have a social contract with their citizens, and immigrants cannot claim rights in host countries. Although human rights are not legally binding and their universality is debatable, they remain useful, make life worth living and ensure decency within relationships and communities. This chapter also focused on xenophobia in South Africa and outlined its negative implications on the education of children without legal identification documents. Xenophobia greatly influences the perception and general treatment of children without legal documents which has a huge impact on the educational attainment of these children.

The next chapter will focus on reviews of inclusive education. I outline that inclusive education within the social model is adopted for this study. I also discuss the main approaches used in inclusive education. This is done to show that although education as a human right isrecognized in inclusive education, there are different approaches to inclusive education. For inclusive education to be considered inclusive, and allowing for access to education for all children no matter who they are, documented or undocumented, it is crucial for inclusive education to foreground human rights in inclusive education.

# CHAPTER 4: INCLUSIVE EDUCATION THEORETICAL FRAMEWORK

## 4.1 Introduction

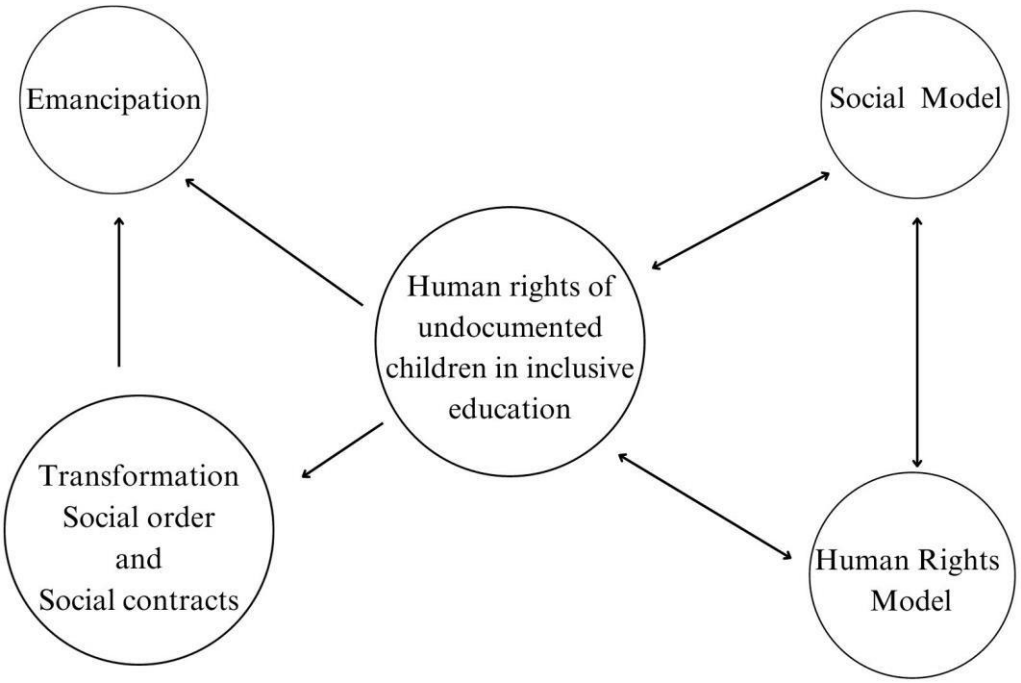
In this chapter I will outline the framework of inclusive education that I have adopted for this study. I first outline the five approaches to inclusive education that Oliver and Barnes (2010) outlined. These include the disability rights approach, the critical theory approach, the transformation approach, the school reform and improvement approach, and the emancipatory approach. Thereafter I also discuss the nine models that Retief and Letsosa (2018) outlined with regards to disability. The nine models of disability are linked to inclusive education and include the moral and religious model, the medical model, the social model, the identity model, the human rights model, the cultural model, the charity model, the economic model and the limits model.

Using Oliver and Barnes (2010) and Retief and Letsosa (2018), the theoretical framework on inclusive education that I have chosen for this study is centrally based on the recognition of inclusive education being linked fundamentally to human rights. This is argued in the previous chapters I have shown to be of central importance because the human right of undocumented children to access schooling is violated when they are not included in schools. I have also indicated previously that inclusive education cannot be considered to be inclusive if undocumented children are excluded from schooling and are unable to realise their human right to education.

From Oliver and Barnes (2010) I draw on their account of the transformation and emancipation approaches to inclusive education, since as will become clearer later, for the right to education for undocumented children to be realised will require fundamental transformation of the department to Home Affairs in South Africa, as it will be for other countries in the world to ensure that such undocumented children are provided with the legal documentation they need in order to realise their human right to education. However, and as also indicated previously, this will require a fundamental reordering of the social contract between citizens and states, and thereby a reordering of society itself. It is only through such transformation that undocumented children can be emancipated from the shackles of the burdens that they are forced to carry. As will also be seen later, I locate myself within the social model of inclusive education as outlined by Oliver and Barnes (2010).

I use Retief and Letsosa (2018) in order to highlight the centrality of the human rights of undocumented children in inclusive education which they describe as a human rights model. Although Retief and Letsosa (2018), as will be seen later, focus mainly on disability, the human rights model speaks directly to the framework for this study. The framework for this study is described by the following diagram:

**Figure 4.1 The Framework of inclusive education for undocumented children**




Central to this framework is the idea that all children, including undocumented children, have rights. These rights are enshrined in inclusive education to ensure that all children regardless of documentation have access to education on the basis of human rights as proposed by Retief and Letsosa (2018), who argue that human dignity and the enjoyment of rights by children come first before anything else, thus foregrounding the realisation and full participation of children without documentation in education. There is a strong relationship between the human rights model by Retief and Letsosa (2018) and the social model by Oliver and Barnes (2010). The social model analyses the way society creates barriers for people with disabilities from fully participating in society through societal structures, attitudes and assumptions about people with disabilities, thus hindering the full and meaningful participation of disabled people in society. In the context of this study, there is a direct relationship between transformation and emancipation. Human rights ought to emancipate all children to live freely, and this includes

the right to freely and equally participate in society, and more specifically in education, without any limitations. Such freedom can be realised if there is transformation at a systemic level of all factors that include Home Affairs regulations, school admissions policies, school policies and any other relevant factors that may hinder full participation in education by children without legal documents. Such transformation will require reordering of the social order and the social contract from its status quo to a more accommodating social order. Hence it is after achieving this transformation that emancipation of children without documentation can be realised. However, this transformation is critiqued on the basis that no countries are prepared to alter their social contracts on the basis that the government personnel are put into place by the citizens of a country and are thus responsible for the upkeep, well-being and access to resources and services of the people that put them in power.

## 4.2 Approaches to inclusive education

The inclusive education field is dominated by two broad and very distinct paradigms, namely the special education paradigm and the social model paradigm to be discussed below. A historical background around the development of inclusive education was provided by Oliver and Barnes (2010) based on disability rights. The historical background highlighted the perpetuation of conflict between special education and the social model approach. This background goes on to suggest how people with disabilities should be schooled. The special education paradigm was informed by the medical model of disability. The special education paradigm provides views about people with disabilities in terms of how and where they should be schooled (Oliver & Barnes 2010). On the other hand, Oliver and Barnes (2010) argued that the social model arose as a challenge to the special education's failure to accommodate human diversity by its emphasis of what is normal and abnormal. According to Oliver and Barnes (2010) the social model argues that special education leads to exclusion of people with disabilities and reinforces the dominant view of people and society as normal, and fails to acknowledge the inadequacies of those considered to be normal versus the potential of people with disabilities.

### 4.2.1 The special education paradigm

This paradigm foregrounds the identification of limitations in individuals with disabilities and aims to address these limitations in a segregated and specialised approach that often leads to stigmatisation and exclusion. The relationship to the special education approach to inclusive education is how they influence and inform practice and their view of people with disabilities

in terms of their treatment and education. As highlighted earlier, special education focuses on what is wrong with the person, or what causes the problem, and greatly influences the fields of psychology and special education. Special education has "a profound effect on the education of leaners seen as having "deficits," including those viewed as having disabilities or learning difficulties, which are often referred to as "special educational needs (SEN)" (Teaching For All. 2019, p.8) or Special Educational Needs and Disabilities (SEND) (Wood & Bates, 2020). The special education approach focuses on the individual's bodily deficiency and how it limits one's functioning. It uses measures or functionings against what is "normal" (Barnes & Mercer, 2010), and where applicable makes a diagnosis (Teaching For All, 2019) thereby labelling people with diagnosed "deficiencies" as not normal or simply as retards. Furthermore, this approach involves identifying needs and the classification of students into categories defined by an individual's functionings. The functionalist perspective of Parson (cited in Oliver & Barnes, 2012) views a healthy person as normal and stable and the reverse is equally true for a person who is labelled as sick or unable to function due to some deficits. However, Oliver and Barnes (2012) noted that the sick role situation is further perpetuated if rehabilitation or "clustering" of people with "needs" if special education is chosen.

There is criticism levelled upon the special education paradigm in the sense that it enforces a sense of inadequacy and labels its members as in need of special treatment in a segregated environment that caters for their reality and knowledge acquisition which is deemed different from able bodied people. According to Wood and Bates (2020), there is a variance in the criteria used to identify children having SEND. In England, identification is based on difficulty that requires special provisions, in the USA the child must have a "defined" disability, whereas in Australia the child must have an impairment which impacts on their learning. Furthermore, Wood and Bates (2020) noted that although there is some degree of commonality in the identification of students with SEND, there are still concerns around governance, curriculum and placement and an inclination towards an eclectic approach to practice and no consensus in ways to support students with SEND.

### 4.2.2 The social model paradigm

In this section I focus on the social model of inclusive education which was developed against the backdrop of dismantling barriers and denouncing medical issues as the sole factors of limited functioning. Although special education recognizes the right to education and is useful in identifying individual needs, it marginalizes and segregates people with disabilities through

isolated specialised interventions. Carrim and Bekker (2022, p.21) reported that special education fails to acknowledge "many layers of discrimination and inequalities in societies which bolster social orders as only being made up by and for so-called normal people." It is from this argument that my study leans towards the social model paradigm discussed below, which I view as promoting human rights, equality, integration and empowerment for all people, although there is no inclusive education approach that is totally free of some form of exclusion.

The social model originated from the publication of The Fundamental Principles of Disability in the Union of the Physically Impaired Against Segregation (UPIAS) in 1976, which stated that society disables people with impairments by isolating or excluding those with impairments from fully participating in society (Oliver, 2004). The social model does not refute the challenges emanating from differences but challenges the existence of differences as a "deficit." It proposes that inaccessibility starts with society and solutions should also be found in the society when it removes barriers to access the environment. This can be achieved by advocating full participation in mainstream schools without necessarily separating learners based on what they can or cannot do (Teaching For All, 2019). This set up does not segregate or discriminate individuals based on difference and this prepares all people for integration in later life where communities are not segregated based on difference.

Strongly associated with the social model of inclusive education is Roger Slee (2011) who emphasises the need of social justice regarding inclusive education. He argues that this can be achieved through dismantling the socio-cultural and systematic barriers that hinder meaningful participation of people with disabilities. Furthermore, Slee (2011) reiterates the contribution of societal attitudes and structures as factors that lead to the exclusion of individuals with disabilities. According to Slee (2011), meaningful and effective inclusive education requires removing barriers that range from physical, social and attitudes that hinder inclusivity. Such changes are enhanced by collaboration and participation from all concerned stakeholders including individuals with disabilities, teachers, families and other concerned stakeholders.

Oliver and Barnes (2010) suggested five approaches to inclusive education that I briefly outline below. The approaches that I will discuss are the disability approach, emancipatory approach, transformative approach, the critical theory and the school reform and improvement approach.

The disability approach recognises disability as a natural aspect of human diversity and aims to promote understandings of disability from the broader social model perspective. It is based on the notion that disabilities should be contextualised within political and social contexts that

promote social justice, equitable and inclusive educational opportunities where education of students with disabilities is in a non-segregated setting from a civil rights stance (Connor et al., 2008). The disability approach argues that no one is completely able–bodied and at the same time recognises the lived experiences of people with disabilities. Because the disability approach advocates for a non-segregated learning, it argues that counter-exclusionary practices and reframing of the deficit-based assumption of disability is required to develop inclusive schools. Gabel (2005) further highlighted that there is a need to challenge educational policies and practice that is still built upon the medical model of disability that refuse reasonable accommodations at school level, exclusive communities and parents who still believe that a child with an impairment will not receive equitable education in mainstream education.

The emancipatory approach is viewed by Barnes (2003) as a critical and radical paradigm of research underpinned by the social model. It critically challenged the long–established deficit model of special education which was deemed inferior (Barnes & Sheldon, 2007) and sought to be a rights-based approach that seeks to challenge discrimination and dismantle barriers in education. It is critical of the special education approach and advocated that schools are agents of government that should accommodate people with and without disabilities thus freeing all from an unequal society. The fundamental aim of the emancipatory paradigm is people empowerment through transformation of social relations to ways in which research is planned, implemented and disseminated, thus emphasising improved interactions and relationships with a range of groups, ethical, procedural, political issues and the government at large.

The critical theory approach seeks to challenge the predominant aspects found in the conventional materialist disability studies and supports inclusion of all people on the basis of human rights. It deconstructs ideas, values and attitudes about disability and informs teaching and learning by challenging schools and pedagogy that may have adopted a single model of disability (Vehmas & Watson, 2014). The critical theory describes the differences between the disabled and the non-disabled people as being socially produced for political reasons to maintain dominance located in power relations. The critical theory claims that the education system is characterised by unequal systemic structures and power dynamics that disadvantage the minority and marginalised groups. Therefore, the major aim of critical theorists is to uncover the hidden biases embedded in systems surrounding education. This paradigm is appraised for advocating for an interdisciplinary approach to suit the needs of all learners so that learners are not disadvantaged by barriers coming from the society, school environment or personal challenges that may hinder effective learning. It also promotes critical consciousness

around social injustices. The last paradigm I will discuss is the school reform and improvement approach.

The school reform and improvement approach is about school improvement around leadership, teachers, culture, resources and pedagogy aimed to address five themes, namely, the right to education, equity in education, inclusive education, quality education and lifelong learning. It involves the transformation of what the current mainstream offers. The reforms are required to eradicate shortcomings that exist in the current mainstreams and move away from organisational systems and structures that are focused on everyone, not most or some (Inclusive School Communities Project, n.d). Various processes are involved in the school reform and improvement approach. These processes include reflection, prioritisation, implementation and monitoring impact. These processes are viewed as enabling change in thinking and behaviour that discourage segregated learning that translates to marginalisation. The school reform and improvement approach is important because it supports changes that need to be made through collaboration by all stakeholders ranging from learners, school leaders and teachers to change the status quo in attitudes and values that promote marginalisation of people at school level. However, because of contradictions in polices in the fields of human rights, education and social contracts, there is need for transformation at systemic levels if inclusive education is to be realised.

I have chosen the transformation and emancipation approaches indicated by Oliver and Barnes (2010) and to locate myself in this study within the social model of inclusive education as outlined by Oliver and Barnes (2010). Additionally, I also use the nine models of disability by Retief and Letsosa (2018) and links this has with inclusive education.

Although inclusive education is not based on disability studies, inclusive education is greatly influenced by disability studies which are key aspects of human experience and learning with political, social and economic implications for everyone, including the disabled and the non-disabled. Disability studies were institutionalised in USA in 1982 after proponents viewed people with disability as experiencing stereotyping, discrimination and marginalisation (Connor, Gabel, Gallagher & Morton, 2008). The term ‘disability’ is prone to various and confusing meanings within disability studies and the broader society (Thomas, 2014). This scenario shifted handicapping the person to *ableism* which Gabel (2005, p.4) defines as “discrimination in favour of the able bodied and able-minded.” Although disability studies have their roots in dismantling exclusion and marginalisation of people with disabilities (Connor,

Gabel, Gallagher & Morton, 2008), it is not limited to people with disabilities only, but it cuts across society.

### 4.3 Disability models

Although Retief and Letsosa (2018) discuss approaches or models to disability, they link the nine models that they discuss in terms of whether they lead to inclusion or exclusion in education. Of the nine models, I have drawn on the human rights model which Retief and Letsosa (2018) describe as emphasising human dignity and ensuring the first and second-generation rights of people. The following are the models that Retief and Letsosa (2018) suggest.

The first model they write on is the *moral and religious model* that views disability as punishment from God for some sin(s) committed by the person with a disability or by the parents or ancestors of this individual. This model is criticised for having destructive consequences that that may lead to social exclusion. The second model that they identify was the medical model which views disability as a disease or a negative personal tragedy. This model was criticised for viewing people with disabilities as problems and focuses on the limitations of the individual with disabilities. Thirdly, Retief and Letsosa (2018) highlight the social model which describes disability as a socially constructed model and as such solutions are not directed at people with disabilities but on the society. Although Retief & Letsosa (2018) argued that the social model has been pivotal in the formulation of social policies the model is criticised for ignoring the painful realities of impairments and for making an artificial distinction between impairment and disability. The fourth model that the Retief and Letsosa (2018) identify is the identity model which views disability as a positive identity that influences people to adopt a pride and a positive self-image. This model is criticised for influencing people to identify with a particular culture. The human rights model was the fifth identified model. It emphasises human dignity, and takes into account the rights that offers ways of improving the life structure of people with disabilities. The sixth model that was identified was the cultural model. This model does not define disability, but with the support of cultural theorists it focuses on how different views of disability and non-disability operate in specific cultures. This model was criticised for pathologizing differences and then attending them through institutionalisation. The seventh model is the charity model. The charity model views people with disabilities as people who should be pitied and should be assisted through special services so that the people with disabilities benefit. This model is criticised for labelling people with

disabilities as helpless and dependent upon people without disabilities, thus perpetuating the stereotypes among people living with disabilities. The eighth model is the economic model that views disability from an economic point of view, basing it on the ability of the person to work. This model is used to formulate disability policies, however the model is criticised for dehumanising people with disabilities by overly concentrating on the cost-effective analysis at the expense of other aspects experienced by people with disabilities. The final model that Retief and Letsosa (2018) articulate was the limits model. This model states that disability is best understood on the basis of embodiment and "limitness" and urges people to take into account that all human beings experience some degree of limitations in their everyday lives.

Furthermore, Carrim (2005) emphasises the urgency of human rights education as one way of making human rights particular and personal to peoples' lived experience. In addition, he views human right education as a human right in itself. According to Carrim (2005), a critical approach to and within human rights from multiple literacy approach is essential in uncovering human rights including citizenship, peace, democracy, environmental and anti-discrimination rights education. The reason why human rights education is important is that Oliver and Barnes (2010) recognise human rights in inclusive education, but they tend to do so implicitly rather than explicitly. For my study I found it important to explicitly highlight human rights in inclusive education since these are most experienced by undocumented children.

As can be seen from the above discussion, there are various and varying approaches to inclusive education. This has led to a tremendous number of concepts, confusion and lack of clarity about what inclusive education means and how it should be conceptualised.

### 4.4 Conceptualisation of inclusive education

There is a lack of clarity regarding the conceptualisation of inclusive education and this lack of clarity translates into a lack of implementation of inclusive education. Walton (2011) arguedthat conceptualisation of education is not clear because from its inception, it was designed forpeople with disabilities, however the definition has been broadened to include other aspects such language, inflexible curricular, inaccessible environments and minority groups. This widening of the definition of inclusive education means that inclusive education is viewed differently by people, and different measures are going to be implemented to achieve what it uniquely means to a particular group of people. Likewise, different lenses are going to be usedto measure the extent to which inclusivity has been achieved.

### 4.4.1 Conceptions of learners and context

The study by Raveaud (2005) mainly focused on equality and the social construction on schools and pupils because of their learning experiences. The study took into consideration the history of the country and claimed that "children's learning experiences are influenced by gender, social class, religious creed or ethnicity and the national context and culture of the school" (Raveaud, 2005, p.461). He went further to report that, informed by the ideals of the French Revolution, elementary education was made to be democratically sustainable and ensure equality. Mass elementary schooling was to be the key in bringing about freedom and fairness in society, as there was a reluctance to differentiation to avoid discrepancies in education provision. On the other hand, in England adapting teaching methods was deemed a child-centred approach that went beyond intellectual development to physical, social and moral development and were thus more inclined to differentiated learning. Teachers in France did not deny the difference in learners but argued that the first few years of schooling should help the leaner acquire the expected skills at an almost similar pace and then to improve these skills in the later years. English teachers justified differentiation by viewing it as a collective or individual activity where the child or the school had to adapt. English teachers linked the self-esteem, failure and construction of a pupil's identity as emanating from differentiation. Teachers were therefore pivotal in shaping learners' identities and also the social context.

In another study, Evans and Lunt (2010) acknowledge obstacles to full inclusion in terms of the diversity in the nature of learners and argue for responsible inclusion. The authors argue that full inclusion is problematic in light of contradictions and confusions within conceptualisation of inclusion. In their study, they explored the nature and extent of these limits. The study by Evans and Lunt (2010) was concerned by the increase of pupils excluded from school for unacceptable behaviour and a considerable proportion of these pupils had special needs. Responses showed concern among educationists and policy makers regarding the number of children permanently excluded from schools due to disruptive behaviour. There was evidence to show that children excluded from school are more likely to be socially marginalised and to commit crimes. Children excluded from the mainstream were expected to receive education from Pupil Referral Units (PRUs). The PRUs were small and had an unsatisfactory standard of education making disruptive pupils at risk of being marginalised and not part of the inclusion. Local educational authorities cited different forms of inclusion such as part-time placement in special schools and mainstream schools, outreach support from special school to integrate pupils, units or centres on the mainstream schools and modifications

to mainstream facilities. These measures were termed "weak" forms of inclusion. Furthermore, Evans and Lunt (2010) noted that difficulties towards greater inclusion were categorised under attitudes and beliefs held in schools, resourcing difficulties, lack of clear policy and direction to support inclusion, and parental choices; some parents chose segregated provision, social reasons, poor flexibility in curriculum differentiation and lack of staff training. Concisely, the discussion by Evans and Lunt (2010) was that total inclusion in England and Wales is idealistic and unrealistic in light of shortages of resources and attitudes of schools whilst some respondents felt that full inclusion was possible over a long period. These comparisons between France and England serve to clarify how conceptualisation of education differs from place to place informed by different factors such as the history and values of a given country. Inclusive education is therefore not a one-size-fits-all but there are various factors that inform and guide how inclusive education is conceptualised. In the context of my study, inclusive education is all about giving equal educational opportunities to all children regardless of any differentiating criteria.

Lack of agreement and clarity about inclusive education is thus due to the differences in focus, emphasis and conceptualisation of what inclusive education means, but it is also due to the conceptions and views about education in country contexts. The lack of clarity on the conceptualisation of inclusive education affects the implementation of inclusive education as shall be discussed below.

### 4.5 Issues around the implementation of inclusive education

Besides issues of the conceptualisation and the criticism of inclusive education, there are also issues around non-implementation of inclusive education in some schools and this is informed by various factors. Implementation of inclusive education can be placed on a continuum, and Walton (2011) claimed that inclusive education implementation ranges from slow implementation to non-implementation. Statistics indicate that in some areas there is non-implementation of inclusive policies due to reasons that range from funding constraints, stringent academic testing for applicants and lack of teachers' training. Despite these obstacles, some individual state and independent schools are beginning to embrace inclusion. Characteristics of schools that have successfully implemented inclusive education are shared experiences of the school principal, parents and learners. Walton (2011) cites school principals who are committed to reducing exclusion. One principal in Jubilane Primary school in KZN facilitated for teachers to learn sign language, set up a vegetable garden to assist vulnerable

children and set up the school as a centre for care and support. Additionally, "Another Central Girls Primary School in Johannesburg inner city serves children whose parents are mainly unemployed migrants" (Walton, 2011, p.242). The principal also implemented a feeding scheme to ensure that no girl went hungry at school. Furthermore, arrangements were made for the school facilities to be used in the afternoon for migrant and refugee children who were not being accommodated in the education system. This showed that for this particular school, inclusivity was not limited to South African citizens only, but there was a demonstration of *Ubuntu* and the desire to accommodate all learners in education despite their legal identification status. By setting up a vegetable garden and the feeding scheme, the principals at Jubilane Primary and Central Girls Primary School set an example of significant ways through which inclusive schools can address hunger as a barrier to learning, thus adhering to the social model approach in inclusive education that calls for the identification and addressing of barriers to education. In this case, hunger was viewed as an obstacle to full participation of some children in meaningful learning, thus setting up a vegetable garden meant that no child's learning was hindered by hunger and this was in line with the *adaptability* (emphasis added) aspect of the 4A Framework by Katarina Tomasevski discussed earlier. Adaptability meant that the school was flexible and responsive to the social needs of the children, in this case hunger, that could hinder meaningful and effective learning. This was also in consensus with Walton (2011) who noted that from an inclusive perspective, engagement in schooling is more than formal access, but meaningful development of knowledge, skills and values that enhance participation and performance. Performance can be impeded by hunger, hence the argument that setting up a vegetable garden and a feeding scheme by the schools mentioned above was in line with achieving inclusivity of all children as it enhanced participation and performance of children whose learning could have been negatively affected by hunger. This served to illustrate that implementation of education extends to ensuring that all children are able to meaningfully participate in education without external factors such as hunger.

Walton (2011) outlined other factors that enhance an inclusive culture as facilitating training for classroom teachers through preservice training of teachers and encouraging teachers to question value systems that perpetuate exclusion in South Africa. Parental involvement and shared resources could help facilitate effective implementation of inclusive education seeing that some schools were overcrowded and under resourced. Proactive networking with governmental departments and NGOs, university students doing community service andparents or community members supporting the needs of diverse learners, was anticipated to

assist in achieving an inclusive culture within schools. Finally, "successful inclusive schools become inclusive by being inclusive" (Walton, 2011, p.243) and this is achieved when schools are ready to receive and cater for children with diverse needs and not refuse admission of such learners on the basis of being unable to cater for them, whether documented or not.

### 4.6 Inclusion as a human right discourse

I adopted the human rights approach to inclusive education because inclusive education is indeed a human rights matter. Recent movements towards inclusion regard inclusion as a human rights discourse matter (Naicker, 1999). Resonating with Naicker (1999) are Swart and Oswald (2008) who posited that inclusive education entails recognition and valuing of human diversity within the education system. This was informed by the fact that many children are failing to access education due to missing documents as evidenced by the many examples of children excluded from education cited in the earlier chapters. This is in addition to the children who are also not accessing education due to other factors such as poverty. Furthermore, the notion of the presence of all learners or access to education by all children seems to be a common denominator on how inclusive education is generally conceptualised. This ties in very well with what Florian (2008, emphasis added) termed rights to education as – *access* andrights in education as – *equity*. Access means gaining entry into education and being able to participate in educational activities and processes. On the other hand, equity refers to justice and fairness in accessing educational opportunities, resources and educational support by all children, regardless of race, gender or some form of differentiating criteria. The South African Department of Education (2001) acknowledged that inclusive education had to do with recognition and respect of differences in learners beyond disability, age, gender, ethnicity, language, class and infectious diseases. For the purposes of this study, inclusive education is regarded as a system of education that provides the most effective means of combating discriminatory attitudes to achieve education for all by ensuring access and participation of all children (Armstrong, Armstrong & Spandagou, 2011) regardless of criteria that may make the children different.

It is important to note that there are debates around the notion of inclusive education. Despite being welcomed by many as helping in upholding the right to education, it is criticised by others. Papastephanou (2019) viewed inclusive education as a utopian concept that has been overly and unconditionally praised to the extent that it has been used as a political ideal used

to attain academic visibility and a favourable moral image. According to Papastephanou (2019, p.306)

> "inclusion" comes from Latin and means to "shut something up" and to "confine". In the current academia it is used to refer to "a subject whose rightful membership within a totality has long been either neglected or disputed and blocked."

Papastephanou (2019) does not discredit inclusion but argues that inclusion should not be utopianised to the extent of neglecting other aspects of educational and political normativity or using inclusion as proof of a democratic and open society or to gain public or academic approval.

In this study, inclusive education is viewed as grounded in the presence, participation, and achievement of all children of school-going age, regardless of the identification document status of the child. Thus, the study seeks to resonate with the current use of the term "inclusion" referred to by Papastephanou (2019), that it is to include in education members whose membership to education had been neglected, disputed and blocked for various reasons.

Denial of access to education for children without legal documents leads to social exclusion or inadequate social participation. Muddiman (2000) asserts that social exclusion is not limited to lack of material resources, but it is also linked to inadequate social participation, inadequate access to services and lack of power. The excluded children are rendered powerless because there is little they can do to help their situation. Children are young and not the best or even the most appropriate guardians of their own interests; they need protection (Bridgehouse, 2000). Children need protection offered by adult figures, responsible stakeholders and supportive systems. Thus, compromising the children's right to education by denying them access to equity education is tantamount to neglect and exclusion of children from education.

### 4.7 The introduction of inclusive education in South Africa

Tracing the introduction of inclusive education in South Africa and its challenges, Walton (2011) articulated that the first democratically elected government of South Africa inherited a fragmented education system because of the discriminatory apartheid education system. This system of education led to segregated placement and unequal accessibility to education with unequal provision of resources. Ordinary schools catered for learners who did not need additional support and a separate system of special schools was available to learners deemed

to have special educational needs. Although these special schools were well-resourced, they catered mainly for white learners, and to some extent other learners of colour received services. Black learners with disabilities, or those who needed additional school support, went to school but received no support or were left out of school altogether. Furthermore, teachers were trained separately for ordinary or special school. Thus, teachers were not equipped to serve children from both schools and the lack of resources hampered progress.

According to Walton (2011), the passing of the South African Schools Act of 1996 and a single Department of Education (DoE) that administers education unified the South African Education system. Currently, state schools receive funding from the government but can require additional fees from parents who can pay. On the other hand, independent schools have some independence regarding governance, curriculum and policy as long as it is not discriminatory. The introduction of inclusive education by many countries as endorsed by the Salamanca Statement led to South Africa aligning itself with international trends which would help South Africa to realise its constitutional rights to education and equality. With consultation, White Paper 6: Special Needs Education was developed and published. White Paper Six retained special schools that would serve learners with moderate to severe support needs and would be resource centres for neighbouring schools. Walton (2011) elaborated, "although much of White Paper is focused on educational access and support for learners with disabilities, it is clear that inclusion in South Africa is conceived more broadly than this" (Walton, 2011, p.241). It covers factors such as inaccessible environments, inflexible curricula, language and inflexible curricula. This serves to show that inclusive education in South Africa was modelled around the social model approach, which identified barriers to learning and recognised the right to education of all children regardless of diversity. The social model approach will later be discussed in detail.

### 4.8 Debates around approaches to Inclusive Education

Despite the incorporation of inclusive education around the world, there remain debates regarding the conceptualisation, nature and extent of inclusion. Some of the debates are exposed by Slee (2011), who contends that inclusive education is a project between political struggle and cultural change. He further advanced that inclusive education was a response to integration that had however failed to challenge the dominant culture prevalent in the education system. Despite the introduction and embracing inclusive education, Slee (2011) suggested that the inclusive policies have failed to embrace new ways of thinking about children's difference

and learning. This is because the move from integration to inclusion is regarded by some as having a bearing on the future, yet for some it is a perpetuation of the old system under the term "absorption." Clarifying on integration and inclusion, Slee (2011, p.107) stated that "Integration requires the objects of policy to forget their former status as outsiders and fit comfortably into what remains deeply hostile institutional arrangements." He further added that shortcomings of integration in Australia, and mainstreaming in the USA, exhibited that inclusive education is not attainable through charity tendencies to marginalised minorities.

In the same vein, inclusion seeks that the general population understand exclusion based on the perspectives of those who are marginalised by the regular school culture, and that inclusive education requires adjustments to the curriculum, the physical arrangement of the school or more concisely, it needs to be a radical and a creative enterprise. Examples of scenarios where the general population does not understand exclusion on the basis of the marginalised, and where leaders and stakeholders' creativity and imagination is used to maintain institutional rigidities in retaining inequalities in schooling, is cited by Slee (2011). An example given by Slee (2011) which contradicts the one given by Walton (2011) above, was when one principal in rural Australia attempted to prevent the enrolment of a student in a wheelchair on the basis that in an event of a bomb scare the student would block the evacuation of other children in the corridors. The principal claimed to have the interest of the school's general population in mind but failed to take into consideration the educational interest of the boy in the wheelchair. This example illustrates the extent of the influence and attitudes of leaders and significant stakeholders in blocking or enhancing inclusion of some children into the mainstream. Therefore, careful consideration has to be taken by school leaders and stakeholders to ensure that systems put in place do not violate the right to learn of some children.

In consensus to the debates raised by Slee (2011) is Oliver and Barnes (2010), whose study traces disability studies and the struggle between meaningful inclusion, argue that lack of clarity as to what inclusion means, hindered meaningful inclusion. More importantly, their study argued that there should not be dependency upon a few individuals to realise the success of inclusive education, but that it requires the community stakeholders' involvement in academia and policy. In their study, Oliver and Barnes (2010) focused on Barton who they reported as influential in being the first editor of the journal *Disability and Society* and in the development of the *British Journal, Disability and Society*, where in both journals Barton drew attention to the nature of society and communication channels between academia and policy. He sought new terminology: "inclusion" to address the debate between integration and

segregation concerning the education of children considered to have special educational needs, who he considered were impaired by external societal barriers in addition to inaccessible curriculum, physical barriers and negative staff attitudes. Slee (2011) above confirmed this observation. Oliver and Barnes (2011) further argued that in the latter half of the twentieth century, academia has radically influenced ideas about integration and inclusion and social activism has promoted institutions to acknowledge inclusion despite some reactionary forces that sought to hinder change from happening. On the other hand, Oliver and Barnes (2010) raised concerns whether the discipline of disability studies would be used to form genuine partnerships between academia and activism or would be used by academics to further their own careers. In their paper, Oliver and Barnes (2010) argue that despite the foundations of meaningful change, in the inclusive society, very limited progress has been registered in the UK and the wider world and this threatened to widen and undermine the hope of an inclusive society.

In light of education of children with special needs, Oliver and Barnes (2010) argued that in the UK, mainstreaming led to more segregated practices through categorisation of students leading to flourishing of special schools. They claimed that despite its lukewarm endorsement of integration" (Oliver & Barnes, 2010, p.554), eleven medically based classifications arose leading to the endorsement of the principle of inclusive education. Concisely, mainstreaming did not work but helped to perpetuate discrimination of learners with special needs. Special classes or units for children was common, characterised by limited environmental access and restricted opportunities for extra curricula activities. Most important was the prioritisation of outcomes at the expense of the process, which did not provide equal opportunities. Nevertheless, and on the contrary, Oliver and Barnes (2010) noted that special education did not equip children with disabilities with relevant skills, as research revealed "over 25% of disabled adults have no qualifications or marketable skills whatsoever; more than twice that of non-disabled peers." The argument that Oliver and Barnes (2010) put forward was that regardless of initiatives to ensure that children with impairments were educated in the mainstream, as a result of lack of conceptualisation there remained segregation in the schools with some girl children with disabilities denied formal schooling altogether and some children with intellectual disabilities deemed uneducable.

Additionally, the article by Moosa and Bekker (2021) also noted the gap between policy ideals and actual enactment that is perpetuated by lack of clarity of inclusive education that new teachers are exposed to. The article by Moosa and Bekker (2021) is informed by the Education

For All 2000-2015: Achievements and challenges [Global Monitoring Report] (United Nations Educational Scientific and Cultural Organisation, 2015) that reported that regardless of an international agenda, there are still 58 million children who are out of school globally and the inequality gap is widening. In their article, Moosa and Bekker (2021) postulated that inclusive education is regarded by many as limited to special needs education, however, they clarify inclusive education as a system that enables teaching all learners regardless of diversity at all levels by taking into account individual needs, including undocumented children.

According to Moosa and Bekker (2021), new teachers, pre-service and in-service teachers view inclusive education differently. Whilst the general population assumes that inclusive education entails teaching learners with special needs, pre-service and in-service teachers view inclusive education as a confluence of the society and academic needs of learners. These different views are in line with Ainscow, Booth and Dyson (2006) who argued that there are narrow and broad definitions of the concept of inclusion. Narrow definitions focus on inclusion of learners with special needs, and broad definitions emphasise inclusion of all learners based on their diversity respectively. Moosa and Bekker (2021) argued that White paper 6 broadened the definitions of inclusion which it situates within the social model approach and as such recognised barriers to learning and diversity, but argue that White Paper 6 is ambiguous in that it reconciles perspectives of difference that take diversity into account and again the exclusive special needs paradigm that emphasises the needs placement paradigm. According to Moosa and Bekker (2021, p.58) South African studies found that many teachers maintained the "medicalised beliefs and views and this perpetuates exclusionary practices and such initial teacher education has a pivotal role in dismantling current beliefs and provide opportunities for the teachers to shift their thinking, beliefs and attitudes about inclusive education."

The main findings by Moosa and Bekker (2021) were that while participants linked thinking about children's needs to inclusive education, they presented with challenges in addressing these learners needs in their planning and practice. It was also noted that although teachers are able to recognise inclusive and less inclusive aspects of their lessons, they lacked confidence in translating knowledge into practice. Although this study mainly illuminates the lack of conceptualisation of inclusion by teachers and policy documents, it translates into lack of implementation of inclusion as well. There is thus a strong link between the conceptualisation of inclusion and implementation. This suggests that as long as there is lack of clarity among stakeholders about what entails inclusion, there is going to be conflicting attitudes and systemic measures taken to achieve inclusion, further derailing the achievement of inclusion of all

children into the education system. After having discussed the issues around conceptualisation, I will move on to discuss the influence of disability studies on inclusive education and the two models of inclusive education, and also to motivate for the social model and other versions in the social model.

Inclusive education is not always upheld in South Africa and other parts of the world for varying reasons ranging from legislation, conceptualisation of inclusive education, language, structural problems, political reasons, and lack of legal identification documents among other reasons. Children without legal documentation, whether immigrants or South African citizens are excluded from enjoying their right to education because they are denied access to education on the basis of missing legal identification documents as shall be revealed by the following review of literature and debates. The review below discusses the reasons and issues around the exclusion of some children from enjoying their right to education.

### 4.9 Inclusive education in South Africa

According to Engelbrecht, Oswald and Forlin (2006) South Africa has undergone a transformative educational policy that was aimed at restructuring a fragmented, discriminatory and exclusive education system. The new education system is in line with the new democratic South Africa and aligned to the South African Constitution that embraces equality and human rights and is geared to healing the past. This new educational system calls for commitment by all who will serve as change agents for the transformation of South African schools into inclusive schools. However, Engelbrecht, Oswald and Forlin (2006) agreed that finding a framework with a shared vision for the whole school has been difficult and has negatively affected the implementation of inclusive education.

The article by Engelbrecht, Oswald and Forlin (2006) was based on three South African primary schools in the Western Cape Province in South Africa that trialled the British Index for Inclusion by Booth, Ainscow, Black-Hawkins, Vaughan and Shaw (2000). The British Index for Inclusion is a set of materials and ideas to support schools in becoming more inclusive. According to Engelbrecht, Oswald and Forlin (2006) the British Index for Inclusion is not a blueprint for inclusion but can be adapted by schools to assist schools in their transformation in becoming more inclusive through five phases namely: *starting the index, finding out about the school, producing an inclusive plan, implementing developments* and *reviewing the Index for Inclusion process.*

Engelbrecht, Oswald and Forlin (2006) reflected on the first two stages of the Index for Inclusion. The findings from this study showed that co-ordinating teams reported that the staff realised that they had more human and material resources at their disposal than they knew and more often than not, these resources were under-utilised. The common concerns among all schools was the absence of a shared inclusive school philosophy, the need for formal school policies and democratic leadership from leadership and school management, inadequatesupport in the classroom, ineffective education system, low morale among teachers and lack ofstrategies to deal with learner diversity among other problems. On the other hand, learners wereconcerned with lack of learning culture, discrimination, bullying and inappropriate medium ofinstruction for the Xhosa-speaking learners. Parents were concerned with lack of parental involvement, illiteracy and conflicting values between parents and the staff.

The first theme of an inclusive philosophy showed that awareness of inclusive education was not being raised among the teaching staff and the community despite the recent publication of the relevant policies. Although the Education White Paper 6 was released in 2001, by the time of this study inclusive education in the primary schools in the Western Cape was in the first stage of implementation. One of the principals admitted that despite having the White Paper 6 it had never been discussed by the staff and this research process was the beginning of restructuring and re-culturing the school towards inclusion.

Data findings made it clear that establishing democratic leadership, policies and practices with the principal leading in embracing a democratic style of leadership was essential in leading the school towards inclusion. This theme was reinforced by the finding that besides the principal of School 2 joining the co-ordinating team late, he tended to monopolise the meetings and silenced voices of other members. Some meetings were cancelled because of his absence from school. The principal of School 3 withdrew himself from the process and on the contrary, School 1 faced a few obstacles as the principal of the school was cooperative and managed to secure representatives from the school governing body as well as the parental body.

Collaboration partnerships, a necessary cornerstone of inclusive education lacked between the teachers, learners, parents and the community thus hindering the implementation of inclusive education. School 1, which met on a regular basis, contributed towards support networks and managed their issues better as compared to School 2 and 3. Lack of meaningful leadership in schools 2 and 3 hindered the implementation of inclusive education. Collaboration enabled all relevant to learn from each other and to learn from the best practice. In addition, parental

contextual factors such long working hours, fatigue and illiteracy made it difficult for parents to contribute towards meaningful collaboration. Engelbrecht, Oswald and Forlin (2006) acknowledged that as implied by the Index for Inclusion, learners are resources as well as partners in their education journey and silencing them denotes an authoritarian stance which is counter-productive to implementation of inclusive education.

Regarding addressing learner diversity and behaviour, Engelbrecht, Oswald and Forlin's (2006) findings showed that the staff felt that they lacked knowledge in dealing with and addressing behaviour effectively. Teachers reported that the constructivist emphasis of group work and co-operative learning had not been mastered by teachers and learners did not meaningfully engage or help each other sometimes due to language barriers. Behavioural issues such as bullying and fighting and the lack of effective policies to address such behaviours exacerbates the situation.

In terms of resource utilisation, Engelbrecht, Oswald and Forlin (2006) argued that utilisation of resources is strongly influenced by the kind of collaboration partnership and the community in which the school is situated. Schools could also benefit if they could identify potential and under-utilised resources to realise effective implementation of inclusive education.

The research by Engelbrecht, Oswald and Forlin (2006), in addition to broadening the definition of inclusive education by moving beyond a disability initiative to include inclusive school communities and identifying barriers to learning, served to create an awareness of inclusive education which was not being implemented in the Western Cape in South Africa. The research findings concluded that the first two stages of inclusive education, if contextualised, could provide an effective framework for mainstream schools to support the learning of diverse children.

### 4.10 Comparative studies in Sub-Saharan Africa

The study below conducted by Walton et al. (2020) was on refugees but was considered for my study in the sense that the experiences of the refugees were similar to the experiences of the immigrants in my study. Furthermore, it included immigrants with disabilities and their situation is further compounded by disability, hence the applicability of Walton's study to my study. The study by Walton et al (2020) based on the education of disabled refugees in Sub-Saharan Africa acknowledged that, despite the right to education for refugees being secured in the 1951 United Nations Conventions, refugee children are nominally included in educational

policies but are practically excluded for a number of reasons. The reasons Walton et al. (2020) cited for the exclusion of children range from lack of material and human resources, capacity and structural organisation, immigration legislation, language and culture. Walton et al. (2020) noted that the refugee identity intersects with other identities such as gender, whereby the female refugees are compounded with challenges such as the risk of sexual abuse over and above being a refugee. This finding resonates with the study by Hlatshwayo & Vally (2014) which noted that migrant children also experience violence along the journey to South Africa using unconventional means, and whilst in South Africa due to xenophobia.

There is contestation regarding the rights of immigrants which is better explained on the basis of whether the host country has refugee camps or not. This is because according to international law, individuals with a refugee status are temporarily or permanently entitled to some basic rights, although this differs from one country to another. The study by Walton et al. (2020) revealed that South Africa does not have refugee camps and refugees can settle freely and are protected by the Refugees Act, although there is lack of clarity regarding the rights of asylum seekers and not all children migrating to South Africa qualify as refugees. When refugees are granted asylum, they can access education but they have to be holders of a temporary or permanent residence permit or be in a position to show that they have applied for residency. However, Walton et al. (2020) noted that despite the refugee laws allowing the documentation of unaccompanied refugee children, many authorities refuse to do so without parental assistance. This study also acknowledges the contradiction between the Constitution and the Admission Policy for Ordinary Schools and the practices of the Department of Home Affairs alongside legislative gaps and inconsistencies that deter children without legal documentation who are in South Africa from accessing education. A limited research study on child refugees in education was noted, and the available research shows that there is marginalisation of refugee children and some of the barriers accentuating this status quo are lack of documentation, xenophobia and language barriers, among others. Walton's study confirms the findings by Hlatshwayo and Vally (2014) which also noted the contradiction between refugees' laws, national education legislation and what transpires in schools when children are often turned away. Regarding Zimbabwe, Walton et al.'s (2020) study recorded that there are limited temporary encampments for refugees in Zimbabwe that are characterised by limited educational opportunities in a country whose economy is battling to provide education for all. The situation in Zimbabwe is further exacerbated by the absence of legislation for inclusive education and violation of freedom and rights for children with disabilities from accessing

education. The case in Uganda is different from South Africa and Zimbabwe because of the presence of refugee camps based on certain Acts and Regulations, namely the 2006 Refugee Act, and the 2010 Refugee Regulations, that advocate for equal access to public services including education between the nationals and the refugees. Nevertheless, despite Uganda taking the interests and welfare of refugees into consideration, there remain challenges in the quality of education in Uganda which are mostly compounded by overcrowding in schools, little policy around disability education, lack of educational resources, xenophobia and unaffordable school fees and transport costs.

Walton et al.'s (2020) study is essential and instructive for this study because there are several areas of confluence between them. Although the study by Walton et al. (2020) was based on disabled refugees, it outlined nominal inclusion, marginalisation of child refugees in education, and the role played by immigration legislation as a reason for the exclusion of disabled refugees. This ties in well with the argument put forward in this study that the policies that protect the right to education for immigrants do not practically include and accommodate all children in education as evidenced by children who have been left out of school. Furthermore, Walton et al.'s study (2020) highlighted that in South Africa there is a lack of clarity regarding the rights of asylum seekers and noted the contradiction between the constitution and the Admission Policy for Ordinary School and the practices of the Department of Home Affairs and legislative gaps. Similarly, this study notes the contradiction between the South African Constitution which has a social contract with its citizens and is the highest law of South Africa, and other declarations such as the UNDHR, which although not legally binding, has been ratified by several countries including South Africa, and as such, are expected to adhere to it. However, some immigrant children in South Africa, and even children born to South African parents, are still left out of the education system due to missing documents, hence the motivation for this study. Challenges and obstacles in inclusive education were not only noted in Africa, but it is a common feature outside Africa as noted below.

### 4.11 International experience of inclusive education

Successful implementation of inclusive education is dependent upon how it is conceptualised. Ainscow (2020) noted that inclusive education is still regarded by some countries as serving children with disabilities in educational settings, but it is "increasingly seen more broadly as a principle that supports and welcomes diversity among all learners" (Ainscow, 2020, p.9). It is therefore crucial to use a definition that is concerned with identification and removal of barriers

to access, participation and achievement of all leaners. With reference to the use of evidence in the framework above, Ainscow (2020) purported that it entails "what gets measured gets done" (Ainscow, 2020, p.10). This involves collection of data to monitor progress, however he articulated that if effectiveness is evaluated on inappropriate performance indicators it can be damaging evidence and can conceal more than it actually reveals. Therefore, evidence needs to speak to the presence, participation and achievement of learners, thus creating opportunities to rethink and interrupt existing discourses. Adding on to interrupting existing discourses, Ainscow (2020) reported on research done between 2011 and 2014 in selected schools in England, Portugal and Spain. The research informed a new model of learning and teaching called "Inclusive Inquiry" that involves a dialogue among teachers and students exploring how to make lessons inclusive. This kind of collaboration was also motivated for by Engelbrecht, Oswald and Forlin (2006) discussed earlier in the Inclusive Education Framework.

In light of school development, Ainscow (2020) noted that it calls for schools to reform, for practices to be improved to respond to learner diversity, and for those inclusive practices to be developed by the collaboration of people within a specific context to address barriers to learning. Ainscow et al (2006) proposed that school leaders should be chosen informed by their commitment to inclusive values. This was consistent with the study by Engelbrecht, Oswald and Forlin (2006) that noted ineffectiveness in co-ordinating teams with principals who were not committed to making inclusive education work. Resonating again with Engelbrecht, Oswald and Forlin (2006), Ainscow (2020) emphasised the importance of forming partnerships with stakeholders, professions, teacher trainers, researchers and minority groups at risk of exclusion and parent support groups. Finally, Ainscow (2020) highlighted the importance of the role of the administrative department and collaboration. He noted that, change is required across the education systems spanning from policy-makers, senior staff at national, district and school level. At the same token, Ainscow (2020) acknowledged the difficulty of changing cultural norms in education in the context of competing pressures and the lack of collaboration in working towards inclusive practices.

Research done by the University of Florida middle schools in Suburban South Florida showed that despite the growing body of knowledge about school reform and special education practices, researchers know little about the extent to which innovations are sustained over time and what factors influence their sustainability (Sindelar, Shearer, Yendol-Hoppey & Liebert, 2006). The research noted that when districts are not committed to innovation, there is less

chance of the survival of the reforms and that devoted principals are likely to have teachers who are committed to practice.

Effective classroom practices that are consistent with teachers' and leaders' beliefs andattitudes towards inclusive practices are crucial in realising inclusivity. The example that follows clearly supports this stance. In the study by Sindelar, Shearer, Yendol-Hoppey & Liebert (2006), one school, Socrates Middle School (SMS), that serves a diverse population, was negatively affected in terms of learner population when another school was opened nearby.To cope with the changes in student population, SMS implemented reforms that included shared decision-making and worked with the University of Florida on the Project RISES to focus on including students with disabilities. Under RISES, students with disabilities were taught by a single team of teachers called Exceptional Student Education (EASE) at each gradelevel. Faculty, staff and district administration discussed the limitations of EASE and how to improve. There were several changes in school leadership and each leader influenced RISES negatively or positively as informed by their attitudes towards RISES. The argument that can be derived from this scenario is that leaders' attitudes and values towards inclusion greatly influence the success and sustenance of reforms and transformation within an institution. If a leader does not subscribe to certain concepts and values, they are less likely to implement any changes. Likewise, if there is no change in attitudes and accommodation of children without documentation, inclusive education will remain idealistic. It is therefore crucial for stakeholders to continuously evaluate progress towards reform against leadership values and attitudes, and make necessary recommendations or changes.

### 4.12 Conclusion

In this chapter I have outlined the framework that I adopted for the study. The framework is based on selected concepts of Oliver and Barnes (2010) and Retief and Letsosa (2018) of the transformation and emancipation models, and the human rights model, respectively. This framework is based on the premise that inclusive education is essentially linked to human rights and the argument that I make is that if children without documentation are left excluded from education, then their human right to education has been violated and the education system in question is rendered exclusive because no education system can be regarded as inclusive if it discriminates against some children.

This chapter has also traced the origins of inclusive education in terms of the international and national perspectives. From its inception, inclusive education was designed for people with

disabilities. Following various international forums, the definition of inclusive education has since been broadened to include language, inflexible curricula, inaccessible environments and minority groups. There are issues regarding the implementation of education in South Africa and other parts of the world. Challenges that affect the implementation of education range from slow implementation to non-implementation as a result of various reasons that range from lack of a clear understanding of what inclusive education entails, funding constraints, lack of resources, and conservative attitudes from school leaders, teachers, parents and the community in general. There is anecdotal evidence to show that some schools with supportive and proactive leaders have embraced inclusive education amidst the challenging contexts. Despite advocating for inclusive education, there remains marginalisation within the regular school where the general population is not accommodating, there is shortage of resources, the environment is inaccessible and staff are not well-trained to deal with diverse learners' needs. Meaningful and full inclusion could be achieved over time if school leaders and stakeholders adopt positive attitudes towards inclusion, collaborate on best practice, and share an inclusive philosophy between service providers, NGOs, policy makers, parents and the community. University involvement is pivotal to ensure that pre-service teachers are equipped to work with diverse learners and are able to challenge exclusive cultures within schools, and are able to use differentiation methods to cater for all learners as dictated by individual needs.

More importantly was the idea of giving voice to the marginalised groups, especially children to enable them to articulate their experiences. This will then lead to informed policy and practice and bridging the gap between academia and the real-life experiences of the affected people. However, some experts are concerned with how research on inclusive education is conducted, with some arguing that it has been used as a tool to attract academic visibility without truly serving the affected people, thus perpetuating the rift between meaningful change and political struggle.

I also highlighted that disability studies influence inclusive education and that there are two main broad and distinct paradigms of inclusive education, namely the special education paradigm, and the social model paradigm, which has other approaches that I use in my study.

I have chosen to place my study within the human rights approach to inclusive education, within the social model. This is because human rights form the fundamentals of education and the social model emphasises the removal of social barriers, the upholding of rights and equality, as well as the integration and empowerment of all people. Children without legal identification

documents have a right to education based on human rights, and their access to inclusion is a matter for inclusive education.

## CHAPTER 5: RESEARCH METHODOLOGY

This chapter details the research design, population, sampling, and data collection tools that were used to gather information from the participants. I motivate for the selection of the research design, population, sampling methods, data collection tools including articulating the strengths and limitations of the data collection tools. Furthermore, this chapter also discusses the ethical considerations that guided this research to ensure that no harm was experienced by the participants.

### 5.1 Research design

This study adopted a qualitative design using mixed methods and it has characteristics of a case study. It was based on Cosmo Oasis, an NGO that assists children with basic literacy and numeracy skills and acquisition of identification documents and school placement, where possible. I chose to adopt a qualitative study which would help me describe participants' behaviour. The main thrust of qualitative research is on the processes that produce descriptive data in people's own written or spoken words and observable behaviour (Taylor & Bogdan, 1984). I chose the qualitative research design because qualitative research is regarded as sensitive to the human situation and may contribute to emancipation and empowerment of humans (Cohen & Manion, 1994). Qualitative researchers seem to start with a problem, examine literature related to the problem, pose questions, rigorously gather multiple forms of data, analyse the data and persuasively write up a report so that the reader experiences "being there" (Cresswell, 2012). From another perspective, Leedy and Ormrod (2013) proposed that when conducting qualitative research, the following steps may be followed: formulation of questions, ask open-ended questions, describe, interpret, verify or evaluate findings. This research design was therefore suitable for my study because I intended to describe the experiences of children with legal documentation in relation to inclusive education. Although this research is limited in bringing about change, it is anticipated that describing and detailing the experiences of the affected people would contribute to the growing body of knowledge and inform the necessary stakeholders of the issues and growing trends in inclusive education within South Africa and the global village at large.

Among the various factors enhancing or hindering the conceptualisation of inclusive education is the issue of voice and the lived experiences of children. Children are pivotal when it comes to discussing inclusive education because almost every other factor is centred around them in terms of their enjoyment, achievement and effective education. Therefore, it is important to

listen to the voices of children. One of the reasons why children ought to be listened to is because they are young, their understanding and the lenses through which they view the world may be different to the views of the people in the education system such as teachers, principals and the district officials. The idea of giving children a voice has not gone undebated.

### 5.2 Whose voice matters in the construction of inclusive education?

Clark (2005) posited that the children's rights discourse and the sociology of childhood gave rise to the lenses of viewing young children as vulnerable and in need or as active and competent. He foregrounds the complex nature of understanding, listening, consulting and participation of children. Furthermore, the United Nations Convention of the Rights of the Child (UNCRC) promotes the view of children as right holders, therefore children have a voice and must be heard. The study by Clark (2005) focused on children under five years in relation to children's rights and perspectives. The study was based on six case studies of innovative practices and a seminar with policymakers, academics and practitioners. In this study, Clark (2005) identified issues for practice, policy and research as guidelines for listening to and consulting with young children. He defined listening as encompassing an active process of communication, which involves hearing, interpreting and constructing meanings. These processes require children and adults discussing meanings through verbal and non-verbal ways. Ranges of methods are involved in listening and these include "observation, interviews, questionnaires, structured interviews and multi-sensory approaches. Multi-sensory approaches include the use of cameras, audio equipment, tour maps and making art-based activities" (Clark, 2005, p.494). These methods help formulate themes that give children more visibility and prevent the message for policy research becoming hidden among powerful stakeholders. This stance is echoed by Slee (2011) who posited that research has become "an activity carried out by those who have power upon those who do not" (Slee, 2011, p.82). Rather, he advocates that inclusive education requires that we seek understanding from the marginalised groups of people. Specifically, writing about research for people with disabilities, Slee (2011) wrote about unequal power relations between expert researchers and the people with disabilities. In this situation, according to Slee (2011), people with disabilities become objects of and within research instead of being allowed to be participants in research that concerns them. Likewise, research that involves children should also allow the children to have a voice about issues that concerns them.

Themes that emerged from the study from young children by Clark (2005) include the importance of friends, food and drink, creative arts, outdoor play, the role of adults,

achievements and identity and transitions. These themes informed practice and what the children valued which in turn helps to bridge the gap between listening and learning so that practitioners can provide environments that support everyday listening to children and make their lives visible and meaningful. Consulting with young children enable the representation of young people's views at a strategic level since participation at strategic level is bound up with adult-led debates. Clark (2005) acknowledged challenges associated with listening to children such as being-time consuming and creating environments which respect and listen to young children. Nevertheless, he challenges practitioners, policy makers and researchers to serve children and take their perspectives and interests into consideration. The study by Clark (2005) is aligned to my research in that I intended to give children without legal identification documents a voice by articulating their experiences in education through interviews and questionnaires at their level and I used themes emerging from the findings to explain the plight of these children to stakeholders.

Some studies around the world revealed that the consideration of children's voices, the implementation of inclusive education and allocation of resources in schools, varies from place to place and that it is informed by the conceptualisation of inclusive education determined by whether the countries or schools advocated for equality or differentiated learning. To achieve the aim of giving children a voice I used a single case study, the case of Cosmo Oasis, a non-profit organisation that helps children without legal documentation.

Case studies are a rich design of inquiry because they focus attention "on a single instance of some social phenomena…" (Babbie, 2010, p.309). Additionally, they are valuable because they "develop an in-depth analysis of a case" (Cresswell, 2014, p.14). Following a case study design enabled me to thoroughly engage with the participants and problem under investigation. Although case studies are a rich design of inquiry, they are not free from criticism. Case studies are prone to subjectivity which is inevitable due to personal involvement of the researcher (Simons, 2009). Potential subjectivity was minimised by using questionnaires as another way of collecting data from children without legal identification documents and their parents. Case study findings are deficient of generalizability (Thomas and Myers, 2015), however, as highlighted earlier, the aim of this research was not to generalise findings but to explore, investigate and inform the tension between human rights, conditions of their realisation and their impact on inclusive education.

### 5.3 Participants

Cohen and Manion (1994, p.86) indicated that, ‘‘the specification of that population to which the enquiry is addressed and affects decisions that researchers must make for both, sampling and resources.” My participants came from children without legal identification documentation situated at Cosmo Oasis, a non-profit organisation that helps children without documents to get documents, access education and accommodate their educational experience in the interim (see Appendix C). I also used two Gauteng Department of Education officials as participants. One of these GDE officials worked directly with the GDE online school admission, which has seriously affected children without legal documentation and the other one worked in the department of inclusive education (See Appendix D). I chose these participants because they have first-hand experience with the focus of the study in terms of the education of children without legal identity documents. The children without legal documentation and their parents are directly involved in issues of school admission, whilst the GDE officials implement the online school admission, attend to queries related to the online school admission, and are responsible for the implementation and assessment of the extent of inclusivity in South African schools respectively. Below I provide the description of Cosmo Oasis as the site of my study since this study had characteristics of a case study. My participants also included one Cosmo official and the parents of the children. As such the following were the participants I used in this research;

1. Four undocumented children

2. Four parents of the undocumented children

3. One Cosmo Oasis official

4. Two GDE officials

### 5.4 Site

The children that participated in my study were stationed at Cosmo Oasis, a branch of Oasis South Africa, a nationwide non-profit organisation that is committed to empowering the wider community in which it is based. Cosmo Oasis is located in Cosmo City, a township situated just before Kya Sands enroute to Lanseria airport in Johannesburg, South Africa. The township is characterised by a multiclass, multiracial and multinational population (Sisulu, 2016). The township is found 25km north-west of Johannesburg and is typified by Reconstruction and Development Programme (RDP) houses and backyard houses. The streets in Cosmo City are

named after American, African and Asian cities to foster integration across class and background (Myambo, 2014).

At its inception in 2007, the Cosmo Oasis centre was aimed at educating, developing and empowering unemployed youths in the community through a programme called “Bridge the Gap.” This programme was meant to assist youths to discover their talents and empower them with skills to be self-reliant later in life. Gradually, the centre grew to accommodate sex workers and assist with homework and also incorporated children without documentation by assisting these children to acquire legal identification documents and help with school admission where possible.

The reasons for the choice of this site was, firstly, the existence of Cosmo Oasis was an indication that there were issues with the education of children without legal documentation; and secondly the proximity of the site to me thus saving on time and costs and making the population accessible.

### 5.5 Sampling

I used purposive sampling to select participants from Cosmo Oasis and from the Gauteng Department of Education. Purposive sampling involves purposive selection of participants based on characteristics of the population and the objectives of the study (McMillan & Schumacher, 2014). Purposive sampling allowed me to get a sample that was information rich and representative of the topic under discussion. I chose the children without legal documentation and their parents because they are directly affected by the absence of legal identification documentation. The Cosmo official had knowledge about the centre and the GDE officials worked directly with school admission and inclusive education. Through purposive sampling and help from the Cosmo Oasis official, I managed to get four children from Cosmo Oasis and the four parents to these children.

### 5.6 Data collection tools

Data was collected through the use of individual semi-structured interviews (see appendices A, B, C and D) and questionnaires (see appendices E and F). I administered the questionnaires first followed by semi–structured audio-recorded interviews. This allowed me to further probe what was found in the questionnaires.

### 5.6.1 Semi – structured interviews

Semi-structured interviews are dialogues aimed at eliciting information for a topic of interest (Menter, Elliot, Hulme & Lowden, 2012) (see appendices A, B, C and D). The interviewer influences the course of the conversation and pursues specific topics raised by the respondent (Babbie & Mouton, 2001). Individual audio recorded semi–structured interviews with the aid of an interview schedule were used to elicit information from four children without legal documents at Cosmo Oasis and four parents of the interviewed children. The audio recorded semi–structured interviews with children and their parents were conducted after administering the questionnaires to allow me the opportunity to generally probe the responses that I had obtained from the questionnaires. I also interviewed two GDE officials and one official from Cosmo Oasis. I chose to interview children without legal documents because they are the ones who are directly affected by the problem under investigation. Obtaining information directly from them allowed me to concentrate on the feelings and experiences of these children. I took the age of children, language limitations and their comprehension of questions into consideration when collecting data. Data collection was conducted in English and none of the adult participants presented any challenges with respect to language. However, although I used very simple English language, there were times where I had to code switch between Shona and English to allow the children to articulate themselves well.

Additionally, semi-structured interviews gave me the opportunity to simplify questions and allowed me to probe further, thereby improving the quality of my data. When conducting the interviews, I followed the structure suggested by Burton et al. (2008) of beginning by asking key questions focusing on the theme of the research and further questions were asked dependent upon responses obtained. This helped me to get a clearer understanding of the responses. I also took notes during the interviews, paying particular attention to non-verbal cues.

### 5.6.2 Advantages of semi–structured interviews

Semi–structured interviews are flexible because they go beyond the prescriptive by enabling the researcher to probe the interviewee, give insights to the interviewees' way of thinking and attitude because of their interactive nature (Menter et al., 2012). There is provision to observe and analyse body language and check if it is congruent to the spoken words thereby improving the reliability of responses. Leedy and Ormrod (2013) noted that semi–structured interviews yield a great deal of information that include facts, feelings, motives, present and past

behaviours and conscious reasons for actions and feelings. Interviews improved the congruence of the responses that I got from my participants, and I was also able to see if the responses corresponded with the participants' body language.

### 5.6.3 Disadvantages of semi-structured interviews

The shortcomings of semi–structured interviews are that they could be marred by researcher desirability and dishonesty (McMillan & Schumacher, 2014). Researcher desirability occurs when the participants conceal their authentic opinions about a matter under investigation so that they look good in the eyes of the researcher. Semi–structured interviews are also vulnerable to personality differences, power dynamics, gender and sensitive information may be difficult to discuss face to face (Menter et al., 2012). The shortcomings of semi–structured interviews were minimised by probing follow-up questions, avoiding very personal and sensitive information, taking notes, recording and transcribing the audio-recorded semi–structured interviews with the permission of the participants. In addition to that, data that was collected using questionnaires and responses from the questionnaires and the audio recorded semi–structured interviews were triangulated to get to the truth as much as possible**.**

## 5.7 Questionnaires

Questionnaires are a way of asking questions from respondents as a way of soliciting information for appropriate analysis (Babbie, 2010). Questionnaires in a written format with closed and open questions were used to gather data from all parents and children without legal documents (see appendices E and F). Questionnaires were chosen as a data collecting tool from parents and children to give a voice to both the children without legal documentation and their parents and to allow comparison between interview responses and questionnaire responses. Questionnaires gave participants ample time to freely respond to the questions in their own space without intimidation from me as the researcher. As highlighted earlier, questionnaires were self-administered to children and their parents first before administering the semi–structured interviews. The questionnaires were hand delivered to the respondents at an arranged day that was facilitated by the Cosmo Oasis official. This allowed me the opportunity to explain the purpose of the questionnaires (Burton et al., 2008) and clarify issues participants might have with the questionnaires. Respondents were given preliminary notification of the questionnaire and a deadline of collecting the questionnaire was set to improve response rates (Menter et al., 2012). There was a one hundred percent response rate from both the children and the parents.

### 5.7.1 Advantages of questionnaires

Questionnaires are cheaper, easy to administer, allow the researchers to ask questions of interest and closed questions allow rapid data analysis (Menter et al., 2012). Besides being economical, questionnaires have the same questions for all participants allowing me to get varied responses on the same phenomena from different participants. Questionnaires have strengths in guaranteeing anonymity which minimises the likelihood of interviewer bias and make provision for candid responses on sensitive issues (MacMillan & Schumacher, 2014).

### 5.7.2 Disadvantages of questionnaires

Questionnaires are time consuming and difficult to design to ensure that items are clear and free from double barrel questions (Babbie, 2010). Questionnaires are only useful when the respondents are competent and motivated enough to answer the questions (Menter et al., 2012). Questionnaires leave no room for the researcher to observe a sense of whole heartedness or confidence when responding. Answers that are not clear remain unclear, this is why for this study, I administered questionnaires first before interviews to allow me to probe the responses from the questionnaires.

## 5.8 Ethical considerations

As I conducted my research I conformed to the standards of expected conduct. This was achieved by upholding the ethical considerations of protection from harm, privacy, confidentiality, informed and parental consent in cases of children below the age of 18 (McMillan & Schumacher, 2014). I applied for research ethics clearance from the University of the Witwatersrand Human Research Ethics Committee (Non-medical) and obtained an ethical clearance certificate with Protocol Number H19/08/19 (see Appendix T for the research ethics clearance certificate). I prepared information sheets and invitations to participate in the research for children, parents, Cosmo Oasis officials and GDE officials (see Appendices G, I, K, M and O). I took cognisance of the children's ages in giving consent and prepared an informal assent form (see Appendix H) and sought permission from the parents to allow their children to participate in the research (see Appendix I). In these forms I clearly stated the objectives of the study, the usefulness of participating in the study, and made it clear how the participants were expected to participate should they agree to participate. I also highlighted that the participants would not be paid for participating in the study and that there was no foreseeable harm in taking part in the research. It was made clear that the participants would

not be paid for taking part in the research and that they could withdraw from the research at any time should they wish to do so, without any consequences.

**Informed consent and informal assent**

Since I worked with children who are vulnerable and could not understand the language of informed consent, I sought signed informed consent to work with the children from their parents (see Appendix I), and sought informal assent from the children as well. The parents, Cosmo officials and the GDE officials, gave their informed signed consent (see Appendices L, N and P). By giving signed informed consent and informal assent (see Appendix H), participants agreed to voluntarily participate in the research based on a full understanding of what the study entailed (Babbie, 2010). One of the GDE officials declined to have her interview audio-recorded and I respected that decision and took notes only during the interview.

**Protection from harm**

Protection from harm entails that all participants are treated in a courteous and respectful manner (Leedy & Ormrod, 2013). To guard against the violation of protection from harm, I conducted all audio recorded semi–structured interviews professionally, in a safe place and at a time agreed upon by all participants. I also avoided asking personal and uncomfortable questions (see appendices A, B, C, D, E and F). In addition to that, since I was working with minors who could potentially be intimidated by the data collection process, I was friendly towards the children, and I had requested the services of a registered social worker (see Appendix Q and R) to be on standby as I collected my data should her services be required. I however did not use the services of the social worker because there was no need for her services during the data collection process.

**Privacy**

Though it is difficult to guarantee privacy when analysing and reporting results dealing with a small sample, I guarded against violation of this right by using pseudonyms for all participants. I also avoided the use of personal information which could lead to participant identification. I guaranteed the privacy in the informed consent forms by keeping them safely under lock and key.

**Confidentiality**

McMillan and Schumacher (2014) highlighted that confidentiality means no one should access individual data or names of the participants except the researcher, and that the participants know who will see the data. I guaranteed confidentiality in the information sheet and informed consent forms. I analysed my data without making any description that could make a connection to a particular participant and using pseudonyms (McMillan & Schumacher, 2014).

**5.9 Design limitations of the study**

This study was aimed at investigating inclusive education and the plight of children without legal documentation. It followed a qualitative research design and characteristics of a case study. This research design has strengths and limitations. It has more validity and limited reliability respectively (Babbie, 2010). Validity was defined by McMillan and Schumacher (2014) as the degree to which scientific explanations of phenomena match reality, andreliability as the consistency of measurement, respectively. To counter these limitations, I usedtwo tools to collect data, individual audio-recorded interviews, and questionnaires. This helpedto improve the reliability and validity issues through triangulation of findings from children's and parents' views. As highlighted earlier, qualitative research falls short on generalizability to other populations. Nevertheless, this study was rather about understanding the plight of children without legal documentation in relation to inclusive education and extension of findings as opposed to generalisability of the study (McMillan & Schumacher, 2014).

I was cognisant of the limitations of my study such as the dynamic nature of the participants and the sensitivity of the matter under investigation. To counter these limitations, I obtained permission from Cosmo Oasis to conduct the study at their organisation. I used questionnaires as another way of collecting data to complement interview responses. I engaged with newspaper articles where people anonymously publicised their challenges in accessing education due to lack of legal documents. Maintaining the anonymity of participants by using pseudonyms for all participants and the omission of certain characteristics in the description of participants that could lead to their identification were additional ways that I used to guarantee the anonymity and confidentiality of the research participants. Generalisation of findings is not possible because I focused on a single case and my study does not seek to generalise but to explore, understand and describe the tension between human rights, conditions of their realisation and the impact of these on inclusive education.

My study had potential time constraints. Time was a challenge seeing that the researcher is a full-time teacher. To address this limitation, I made prior arrangements with the Cosmo Oasis personnel to sample children and parents who would take part in the study. The Cosmo Oasis personnel arranged and communicated a date and time for dropping off questionnaires and for the interviews. I also made arrangements with my school management for time off and morning or afternoon lessons were taken to make up for missed time.

Language was a barrier with some child participants. To address this I had to code-switch between English and Shona. Code switching did not cause a problem because all child participants and their parents were from Zimbabwe and spoke Shona, one of the Zimbabwean languages. I had initially made plans to get an interpreter to help with language in case of need (see Appendix S), however, as I planned for the data collection with the Cosmo Oasis personnel it turned out that the children and parents that availed themselves for the research were all from Zimbabwe and could speak Shona.

### 5.10 Trustworthiness and credibility

The trustworthiness of findings determines the value of qualitative research (Mouton & Babbie, 2001). To improve the trustworthiness of my research I used simple language that could easily be comprehended by the participants, taking into consideration that I was also working with children. I had to rephrase the question(s) if the participants did not understand them. Probing enhanced the accuracy of responses, and the interviews were recorded and transcribed verbatim thus improving the trustworthiness of the collected data.

Trustworthiness and credibility of the study depends on the steps of data collection and the accuracy of the findings (McMillan & Schumacher, 2014). In addition, it is determined by the relationship between research findings, claims and the reality of the world. Babbie (2010) and McMillan and Schumacher (2014) concur that participant competence may influence research data. These factors range from participants' age, educational level, state of physical and mental health and narrative skills.

*Credibility*

Credibility is an aspect of trustworthiness. 'Does it 'ring' true?' was a question posed by Babbie and Mouton (2001) to emphasise the credibility of research findings. I ensured credibility of my research by two methods of data collection. This resonated with Babbie and Mouton (2001)

who noted that credibility is achieved through prolonged engagement with participants and pursuing interpretations in different ways and triangulating responses from the audio-recorded interviews and questionnaire responses.

### 5.11 Data analysis steps

The audio-recorded interviews were transcribed verbatim to allow me to analyse and report on the data and the findings. This was followed by the process of data analysis proposed by Creswell (2012) who proposed that six steps be followed. The process entails organising and sorting of the transcribed interviews, followed by sorting and coding into major themes, and lastly, refining that data and situating data into categories. The first step entails organising data to ensure that it is ready for analysis. The second step requires forming patterns and potential themes informed by the data. The third step is coding of data and assigning of labels from pre-existing codes. The fourth step is grouping of related codes and refining themes, where necessary. The fifth step is providing meanings to findings and formulating narratives as informed by findings and research questions. The final step is checking for rigor and this is achieved by checking findings with participants to improve the credibility of the research. Triangulation was done to validate the accuracy of what was obtained from the questionnaires and interviews to improve the credibility of the research findings.

### 5.12 Conclusion

This section has covered the methodology section of the research. It outlined the population, sampling, and data collection tools that were used to gather information from the participants. The strengths and limitations of the data collection tools were discussed including ways that limited the shortcomings of the data collection tools. I also highlighted the ethical considerations that I adhered to in order to ensure that my participants voluntarily participated in the study without being harmed. The limitations of this study were also outlined.

# CHAPTER 6: RESEARCH FINDINGS

## 6.1 Introduction

This chapter reports the research findings from the data collected. This study is a qualitative study that made use of mixed methods and a case study of a non-governmental organisation called Oasis in Cosmo City in Johannesburg, South Africa. This organisation helps children without legal documents with basic skills in education, that is, numeracy and literacy skills while the parents of these children apply for legal identification documents for the children. The data in the study was compiled using audio-recorded semi-structured interviews and self-administered questionnaires. A total of eleven participants participated in the semi-structured interviews. Ten of the semi-structured interviews were audio-recorded with the exception of one participant who declined to be audio-recorded. Four children who attended Cosmo Oasis City and each of their parents (a total of four parents) participated in the semi-structured interviews. In addition to these four learners and four parents, one Cosmo Oasis City teacher and two Gauteng Department of Education (GDE) officials from one of the Gauteng Education District offices also contributed to the study through semi-structured interviews. The two GDE officials who were interviewed were specialists in the fields of inclusive education and the Gauteng online application system. The four Cosmo Oasis City learners and the four parents who participated in the semi-structured interviews were also the respondents to the self-administered questionnaires with closed and open-ended questions. There was a 100%response rate to the questionnaires from both the parents and the learners although not all questions in the questionnaires were answered as shall be discussed in this chapter. The data obtained from self-administered questionnaires and the semi-structured interviews were analysed to describe the plight of children without legal documentation using the case of Cosmo Oasis City. The plight of these children was outlined by analysing if the South Africaneducation system is inclusive to all children without legal documentation and by investigatingthe implications of South Africa's laws and practices with respect to children's legal documentation and their right to education.

Data that was collected through the self-administered questionnaires was manually analysed to produce tables that enhanced the presentation of data to uncover the experiences of the participants from the responses. Data from the interviews were transcribed verbatim by a professional transcriber. I then followed the inductive process of data analysis of coding the

data and breaking down the emerging broader themes into manageable categories as described by McMillan and Schumacher (2014).

I begin by giving the context of Cosmo Oasis centre and findings from the Cosmo Oasis official since the Cosmo Oasis centre was the case study for my research. This is followed by findings from the children without documents because they were the centre of my study. After that I will outline the findings from the parents, and finally, the analysis culminates with findings from the GDE officials.

### 6.2 Context of the Cosmo Oasis centre

The context of the Cosmo Oasis Centre was outlined by the Cosmo Oasis official. The centre was founded in 2007. Its aim was educating, developing talents and empowering unemployed youths in the community through a programme called "Bridge the Gap." This programme was meant to empower the youths with skills and to help them discover their "God-given potential'' as described by the Cosmo Oasis personnel (Interview, Cosmo Oasis personnel, 2019). The organisation reported that there was a noticeable gap in some youths after completing their matric, the highest stage of high school attainment in South Africa. These youths would sit idle not knowing what to do after completing their matric. It was envisioned that "Bridge the Gap" would help these youths to discover their strengths and weaknesses and consequently gain a skill that they could use for a livelihood. The Cosmo Oasis personnel who took part in this study was a product of the "Bridge the Gap" programme initiative.

Later, the thrust of the organisation was extended to include other groups of people as informed by the needs of the community. Two other programmes that were subsequently established included the "Green Light" programme that caters for women involved in sex work, and later, the "Baby Bridge the Gap" programme that caters for children without legal documents who are failing to access public schools, was established. The "Baby Bridge the Gap" programme and centre is not a public school nor an independent school, but it is a learning centre that helps children without legal documents with numeracy and literacy basic skills whilst the parents or guardians are in the process of obtaining their papers (Interview, Cosmo Oasis personnel, 2019).

The children who were at Cosmo Oasis in 2019 were from Malawi and Zimbabwe, although the centre has catered for children without documents from South Africa and Nigeria as well

(Interview, Cosmo Oasis personnel, 2019). The learning centre makes use of retired teachers who volunteer to teach three times a week. There are also volunteers from the Mosaic Church in the community and other volunteers and donors from across the country. The centre is also kept informed by social workers from a Non-governmental Organisation called Tutela. The Tutela organisation does not come to Cosmo Oasis, but Cosmo Oasis consults them whenever they need information or help and then share the information with parents of children without legal documents. One of the retired teachers was reported to be an expert in reading, writing and speech assessment.

There are no specific grades at the Cosmo Oasis learning centre. The children are grouped into three groups according to their ability as informed by the assessments done by a retired expert. Group one was the weakest group, and the third group was the strongest.

According to the Cosmo Oasis personnel, children at the Cosmo Oasis learning centre are taught literacy, numeracy, gross motor and fine motor skills achieved through art, crafts and songs (Interview, Cosmo Oasis personnel, 2019). One parent also commented on how the children at Cosmo Oasis go for excursion trips and pay a minimum fee of R80 (Interview, Parent 3, 2019).

Cosmo Oasis has managed to help some children get identification documents and consequently get admission into public schools. Thirteen children from the 2018 group were reportedly in public schools and some parents had decided to take their children back to their native countries (Interview, Cosmo Oasis personnel, 2019). Cosmo Oasis Bridge the Gap does not charge any fees for the services they provide, however, there is a voluntary donation of a R200 once-off payment (Interview, Cosmo Oasis personnel, 2019).

One of the two personnel based at Cosmo Oasis specifically at “Baby Bridge the gap” took part in the semi-structured interviews. She agreed to have her semi-structured interview audio-recorded. Her responses about the background to the formation of Cosmo Oasis learning are captured below.

The Cosmo Oasis personnel clearly explained that Cosmo Oasis is not a school but a learning centre “Baby Bridge the Gap” (Interview, Cosmo Oasis personnel, 2019). Below is an excerpt from the Cosmo Oasis personnel describing what Cosmo Oasis is.

Cosmo Oasis personnel: *…because we are just a learning centre*

Me*: Ok*

Cosmo Oasis personnel: *helping those who are excluded*

Me: *Ok*

Me*: Mmm*

Cosmo Oasis personnel*: So we don't say… we are not even saying we are a school.*

Me*: Ok*

Cosmo Oasis personnel*: because we don't operate like other schools, no.*

Me*: Alright*

Cosmo Oasis personnel*: We are just helping them with the basics while they're applying, they 're in the process of getting their papers.*

The excerpt above summarises what the Cosmo Oasis Centre is and is not. The Cosmo Oasis personnel clearly outlined that the centre was not a school, but rather a learning centre that helped children without documents with numeracy and literacy skills whilst the parents of these children were processing the identification documents for the children.

**6.3 Children's experiences: Cosmo Oasis personnel views**

Later, the Cosmo Oasis personnel said that there were local community members who were capitalising on the desperate and hopeless state of parents and children without legal documents by starting unregistered independent schools that charged exorbitant fees knowing that the parents had no choice of educating their children when they did not get access to education in the public schools. The schools that she referred to as "private" schools were independent unregistered schools that were operated by individuals in their backyards. The Cosmo Oasis personnel explicitly said that:

*"Yoh. So, I feel like there are people who like to take advantage of the situation because in Cosmo there are schools right now, that are taking, and they started them because they want to make money out of the people. Because the government schools they want permits, they want study permit which they don't have. So, someone would build back rooms and say it's a school come and learn …So generally I feel like they are taking advantage of the situation."* (Interview, Cosmo Oasis personnel, 2019).

The above view resonated with findings from the parents as shall be seen later, who reported that they were forced to resort to the expensive independent schools and some parents had been to such schools before coming to Cosmo Oasis learning centre.

According to the Cosmo Oasis personnel, the scenario in the independent schools negatively impacted on the children in the sense that it robbed children of their right to quality education. This conclusion was arrived at because the independent schools were overcrowded and had unqualified teachers. These sentiments were also shared by all parents who wanted public school education for their children instead of the independent schools. The children however showed that they enjoyed being at Cosmo Oasis in both their questionnaire and semi-structured interview responses. The Cosmo Oasis personnel also testified to the children being happy at Cosmo Oasis, she said *"They don't understand the situation that they are in…They prefer … if you were listening, they prefer here than the bigger schools"* (Interview, Cosmo Oasis personnel, 2019).

### 6.3.1 Assistance and challenges at Cosmo Oasis learning centre

The Cosmo Oasis learning centre has helped the children without legal documents and their parents in several ways. The centre did not charge fees but rather a once off donation of R200 to those who could afford it. This gesture was appreciated by the parents who reiterated that the fees at the independent schools were too expensive for them.

The centre offered the children some form of education through the basic numeracy and literacy skills in a safe environment where the children grew holistically compared to the education that the children got from the expensive independent schools. As highlighted earlier, the personnel that volunteered at the centre were qualified for the services that they offered, and their services were voluntary, meaning that the service suppliers did not intend to benefit from the services that they offered. According to the Cosmo Oasis personnel, the children at the centre are taught literacy, numeracy, gross motor and fine motor skills achieved through art, crafts and songs in addition to providing a safe environment with services of a caretaker (Interview, Cosmo personnel, 2019). One parent also commented on how the children at Cosmo Oasis go for excursion trips and pay a minimum fee of R80 (Interview, Parent 3, 2019).

Where possible, the centre assisted with securing identification documents through social workers and other relevant organisations and the placement of learners into public schools. At the time of the conducting this research in 2019, the centre had 21 children from Zimbabwe

and Malawi though the centre has also helped children from South Africa and Nigeria. The centre's assistance with the placement of children into public schools is evident in the thirteen children who got admitted into public schools in 2018 (Interview, Cosmo personnel, 2019).

The learning centre also helps the parents by keeping them updated with information from the internet and from the social workers with regards to the processing of papers for the children. The parents also acknowledged receiving help from Cosmo Oasis learning centre, however, the help was temporary because at some stage the children had to leave the learning centre. Although the centre claimed to help with information from the internet and social workers, none of the parents, nor the Cosmo Oasis personnel, displayed knowledge of the provisional acceptance of children without legal documents as stated by the GDE online officials as shall be discussed later.

Although the Cosmo Oasis has registered success in some respects there were disappointments in certain areas. On the one hand, the centre felt that they were successful in helping to impart numeracy and literacy basic skills and placement of some of the children in the public schools. On the other hand, the centre was disappointed by some church organisations that refused to render help to Cosmo Oasis simply because they are helping foreigners at their centre. The interview between the Cosmo Oasis and myself in that regard went as follows.

Me: *Right, the last question that I have is, what has been the effect of you helping children without legal documentation?*
Cosmo Oasis personnel: *Mmm (chuckles) The outcome?*
Me: *Mmm*
*Cosmo Oasis personnel: Um, sometimes I would go to places, hey, just to ask for donations because we're a NGO.*
Me: *Ok*
Cosmo Oasis personnel: *And they would say. "No, we don't help foreigners" [ Laughs]*
Me: *Alright*
Cosmo Oasis personnel: *Yes, but to be honest, that's ok. I don't …I feel disappointed especially if it's a church.*
Me: *Mmm*
Cosmo Oasis personnel: *This other church they called, they wanted to ask what we do and then I said, I explained, and that's it. They said sorry [chuckles] they don't help foreigners, at church. I was so disappointed I don't want to lie [ laughs]*.

The above responses from churches, institutions that are generally expected to be welcoming to all regardless of ethnicity and background, showed xenophobic undertones although in a subtle way. The churches responses showed that they were willing to help Cosmo Oasis only if they did not have foreigners in their institution. The Cosmo Oasis personnel acknowledged that there were some subtle xenophobic attitudes from some organisations that were expected to render help at Cosmo Oasis learning centre specifically when they showed that their help would be conditional, that is, these organisations would only assist the learning centre if it did not have foreigners. When findings from the children, parents and Cosmo Oasis personnel were compared, it seemed there was no explicit or pronounced xenophobia in the greater Cosmo community. I probed further from the Cosmo Oasis personnel on xenophobic tendencies in the community and she expressed that there was no xenophobia in the community. She expressed that the community was actually benefitting from the immigrants who had no documents as they were their potential clients in the backyard schools that charged exorbitant fees from desperate parents of children without documentation.

### 6.4. Children's experiences and voices

The children that took part in this study were children without legal documents who were receiving some form of basic learning at Cosmo Oasis in 2019 because they had failed to get access into public schools in South Africa. Some of these learners had been to some independent schools in the community that were reportedly accepting children without legal identification documents and charging exorbitant fees that the parents could not afford. After networking, some of the children who had never been to any school in South Africa, had started-off their learning journey at Cosmo Oasis with the hope of getting into public schools.

Three boys and one girl, all from Zimbabwe, completed the questionnaires. One of these children was born in South Africa but did not have South African citizenship, neither did the parents, so the child was Zimbabwean on the basis of the parents' documentation and a Zimbabwean birth certificate. The child born in South Africa had a South African unabridged birth certificate which the mother claimed was not helping to get the child admitted in the South African public schools. This parent had this to say about the South African unabridged birth certificate: *"When you go to government schools, they say the unabridged isn't working; they don't recognise that one*" (Interview parent 4, 2019). The Zimbabwean birth certificate was obtainable in Zimbabwe after producing the South African birth record and the South African

unabridged birth certificate to the Zimbabwean birth registry offices to prove that the child was born in South Africa.

The children who completed the questionnaires were chosen by the Cosmo Oasis personnel using the criteria that selected children who could comprehend and respond to the questionnaire and interview questions in English. Cognisance of the children's language limitations was taken into consideration when developing the data collection tools. Semi-structured interviews with the children were individually recorded after getting consent from all parents and informal assent from all children respectively. I took notes as the learners responded to the questions. I had seven main questions for the children on the interview schedule (see appendix A for the interview schedule used) but more questions were asked as I probed further to get more information from the children depending on how they would have responded to the questions.

### 6.4.1 Children's biographic information

This section summarises the biographic information of the learners who completed questionnaires. The biographic information included age, nationality, education status, and duration of stay in South Africa. These variables were key in understanding, describing and identifying trends and relationships of the status quo of the participants in relation to the study under investigation. Refer to Appendix E for the learner questionnaire.

Table 6.4.1.1 that follows captures the responses of the learners to the biographical questions in the questionnaire.

**Table 6.4.1.1. Learners' biographical information**

| Criteria | Learner 1 | Learner 2 | Learner 3 | Learner 4 |
|---|---|---|---|---|
| **Gender** | Boy | Boy | Boy | Girl |
| **Age range** | 7-9 years | 7-9 years | 7-9 years | 7-9 years |
| **Country of Origin** | Zimbabwe | Zimbabwe | Zimbabwe | Zimbabwe |
| **Length of stay in South Africa** | 1 month to 5 years | 1 month to 5 Years | I month to 5 years | Since birth |
| **Duration of stay at Cosmo Oasis** | 1-2 years | 6-12 months | 6-12 months | 6-12 months |

There were more boys than girls who took part in the study. As highlighted earlier, purposive sampling was used to select the children with the help of the Cosmo Oasis personnel who had better knowledge of the children.

The Cosmo Oasis personnel therefore selected the participants based on characteristics of the population and objectives of the study (McMillan & Schumacher, 2014). The children were representative of children without legal documents who were at the centre because they had failed to get admission into the public schools. These were also learners whose parents had availed themselves to take part in the study.

All the learners who participated in the study were between seven to nine years as shown in Table 6.4.1.1 above. Generally, the maximum age when the learners exited Cosmo Oasis was around nine years because as highlighted earlier, the centre is not a school and it only provides educational basics so the children could not remain at the centre for long. Those who would have gotten their legal identification documents would go to public schools and those who would have failed to secure the identification documents would either go back to their native countries or enrol with the independent schools in the community or simply stayed out of school (Interview, Cosmo Oasis personnel, 2019).

Although the centre caters for children without documents, mostly from Southern, Eastern and Western Africa, to include Zimbabwe, Malawi and Nigeria respectively, all children who took part in this study were from Zimbabwe. As highlighted by the Cosmo Oasis teacher, the centre

occasionally helps children born to South African parents without legal identification documents, however, when this study was conducted there were no children from South African-born parents or from other countries that availed themselves for participation in the study besides children and parents from Zimbabwe.

Despite the Cosmo Oasis personnel indicating that the centre does not grade children into the usual grades found in public schools, the children who participated in the study associated themselves with a particular grade. I later made a follow up with the Cosmo Oasis personnel who clarified that the children were grouped according to their numeracy and reading ability with the help of a retired expert in the field of assessment who volunteers at the centre. All the children who participated in my study were in the third and the strongest group which also happened to be the last group at the centre, and thus the children assumed that they were in grade 3.

I intended to find out the duration of the learners' stay in South Africa to understand the period that the learners had struggled to get access into public schools. Three of the four learners indicated that they had been in South Africa for a period of between one month to five years and only one learner indicated that they were born in South Africa and had stayed in South Africa since birth. I further probed the duration of the learners' stay in South Africa in the semi-structured interviews to get the exact time that the learners had been in South Africa and the information tallied. It emerged in the semi-structured interviews with the parents that even the child who claimed to have been born in South Africa was in the same predicament of failing to access public schools just as the other immigrant children who were born in Zimbabwe. The duration of the children's stays in South Africa was commensurate with the ages of the learners that ranged from seven to nine years.

With regards to their duration of stay at Cosmo Oasis, three learners indicated that they had been at Cosmo Oasis for the same period of time that ranged from six to twelve months and only one learner had been at the centre for one to two years. The learners' duration of stay at Cosmo Oasis was also consistent with their age, their duration of stay in South Africa and the number of years they could spend at Cosmo Oasis. The learners' duration of stay at Cosmo Oasis was also an indication of how long the children had tried in vain to get admission into South African public schools because the centre helped the learners in the interim whilst the parents tried to process the paperwork for their children.

The questionnaires only covered biographical information, how long the children were in South Africa and whether they were aware of the importance of documentation. These were then further probed in the individual interviews with the children.

### 6.4.2 Experiences of children without legal documents

It was important to give children a voice to enable me and others who would read this study to understand these children's experiences in education in South Africa in 2019. I wanted to find out if the children were optimistic about getting help from Cosmo Oasis and to ascertain the children's feelings with regards to being at Cosmo Oasis centre as opposed to being at other public schools where many of their peers were. It was also worthwhile to investigate and describe how these learners related with their peers in the community.

Table 6.4.2.1 below summarises the learners' experiences at Cosmo Oasis and in the Cosmo community.

**Table 6.4.2.1 Learners' experience at Cosmo Oasis learning centre and in the Cosmo community**

| Question | Learner 1 | Learner 2 | Learner 3 | Learner 4 |
|---|---|---|---|---|
| **Do you think Cosmo Oasis will help you with what you need?** | Yes | Yes | No response | Yes |
| **Please describe how you feel about not being in the schools where other many learners of your age are.** | "Happy and fun" | "Ok" | "Happy because there is something to do." | "Proud and happy" |
| **Please explain what you do with other children of your age where you live. Do you play with them? Do you do schoolwork with them? Explain as much a s you can.** | "Play snakes and ladder" | "Play hide and seek" | "Play soccer, watch TV" | "Skipping" |

It can be deduced from Table 6.4.2.1 above that most of the learners were optimistic that they would get help from Cosmo Oasis, and in essence the children were already getting what they

needed, namely education. Learner 3 did not respond to this question. This learner's failure to respond to the question could be attributed to a language barrier that led to the learner not being able to comprehend the question, and consequently not answering the question. The failure of learner 3 to comprehend the questions was confirmed during the interviews when the learner exhibited difficulty responding to some of the interview questions. I had to switch to Shona, a Zimbabwean local language that the learner was fluent in several times. The following are some of the examples where I had to switch to using Shona which was the language that the child understood.

Me: *To pay for what?*

Leaner 3*:* *For the passport.*

Me: *Do you have one or you don't have one?*

Learner 3: *I have.*

Me: *So why do they need to pay when you have it already?*

Learner 3: *Hmm? Eh*

Me: *[speaks in Shona] Kana uine passport vanoda kubhadhara mari yei? (*Why do they need to pay if you already have a passport?)

Learner 3: *[speaks in Shona] Mari yebhazi. (*Bus fare).

Me: *Oh, it's the bus fare that you want so that you can go back?*

Learner 3: *Yes*

Below is another example where the child faced difficulties in expressing himself and I had to switch to speaking in Shona.

Me: Why do you think they cannot find a place for their child?

Leaner 3: Because *[pause for about 13 seconds]* because they, they, they *[pauses for about 5 seconds]*

Me: *[speaks in Shona] Pindura neShona kuti sei vabereki vachishaiwa nzvimbo yevana vechikoro.*

*(*You can respond in Shona to why the parents find it difficult to secure school placement for their children).

Learner 3: Mmm

Me *[speaks in Shona] Taura hako. (You can go ahead and answer).*

Learner 3: *[answers in Shona] Vanenge vachitsvaga asi vanenge vasingawane nzvimbo yacho. (The parents will be trying in vain to get school placement).*

Me: *[speaks in Shona] Chii chinenge chichinetsa kuti vawane nvimbo yechikoro? (What will be hindering them from securing school placement?*

Learner 3: *[speaks in Shona] Maybe ma teacher anoti takwana. (Maybe the teachers say that the classes are full to capacity and they cannot accommodate more learners).*

Me: So there are enough, they cannot take any more children?

Learner 3: Mmm

However, this child who exhibited language barriers sometimes gave responses with deep-seated meanings as shall be discussed later.

### 6.4.3 Children's experiences at Cosmo Oasis

From Table 6.4.2.1 above it can be concluded that all the learners were happy at Cosmo Oasis and in the Cosmo community. The data from the interviews showed that Cosmo Oasis centre surpassed their objectives of imparting literacy and numeracy skills. Learner 4 demonstrated to have accumulated knowledge of children's rights. The following ensued during the interview between Learner 4 and myself:

Me*: What are your experiences like at school here at Cosmo?*

Learner 4: *Write Maths and learn.*

Me: *What do you learn?*

Learner 4: *I learn human body.*

Me: *Ok. What else?*

Learner 4: *And children's rights.*

Me*: Oh, I love that one. What do they say about children's rights?*

Learner 4: *In children's rights they are saying you need to have a place to stay.*

Me: *Yes*

Learner 4*: And learn*

Me: *Mmm*

Learner 4: *And eat healthy food.*

Me*: Mmm*

Learner 4*: And it says children have, and children have to protect…their mother need to protect theirself.*

Me*: Ok. Let's talk about the right to go to school. There are other schools that are not like Cosmo Oasis. Why is it some children are at those schools and some are at Cosmo Oasis?*

Learner 4: *I [short 3 second pause] I think [pauses for about 4 seconds] that South Africa is, it [pauses for about 3 seconds] some, some children need to go that side, some children need to go this side that they can learn things.*

Me*: Ok*

The interviews that I had with the children, with reference to the above interview, could be an indicator of two facets. Firstly, it could be a pointer to the kind of learning that was gained at Cosmo Oasis centre. Secondly it could mean that some children, in particular learner 4, was somewhat knowledgeable of their rights as children from elsewhere.

During the semi-structured interviews, Learner 4 could not help it but stood up to show-off some of her mathematical skills on the board in the classroom where the semi-structured interviews were conducted. She really seemed happy and enjoying herself at Cosmo Oasis. Additionally, she displayed evidence to have accumulated sound numeracy skills at Cosmo Oasis by solving a division problem that she set for herself on the board. This was evidence of learning taking place at Cosmo Oasis and how these children enjoyed being at Cosmo Oasis.

Secondly, the learner's response that "*some children need to go that side, some children need to go this side that they can learn things,"* pointed to the fact that Learner 4 did not know the reasons behind them being at centres such as Cosmo Oasis as opposed to other schools. At the end of the interview with Learner 4 above, it was clear that this learner did not understand that they were at Cosmo Oasis because of missing documents. Learner 4 in particular thought and expressed that sometimes learners just had to be at different schools. The response by leaner 3 to the second question, *"Please describe how you feel about not being in the schools where other many learners of your age are"* – which was responded to by *"Happy because there is*

*something to do"* (Interview, Learner 3, 2019) indicated that learner 3 does not enjoy sitting idle.

### 6.4.4 Children's experiences in the Cosmo community

The responses of the learners to the second and third questions in Table 6.4.2.1 depicted that the learners were happy in the Cosmo community. I probed further in the semi-structured interviews to get as much quality information as possible from the learners and compare their responses in the questionnaires with regards to their experiences at Cosmo Oasis and in the Cosmo community. I noticed that there was congruency between the questionnaire and semi-structured interview responses with regards to the experiences of the children without legal documents at Cosmo Oasis and in the Cosmo community. In both the questionnaire and semi-structured interview responses, learners indicated that they were happy and enjoyed being in the community. The learners demonstrated that they related well with their friends in the community. From the learners' responses, it could be noted that these learners fit well in the community and behaved in a manner expected of children their age. They did not see any difference between themselves and their peers. There was no form of exclusion that they felt or expressed. Resonating with the learners' responses about their experiences at Cosmo Oasis and in the community were the responses from most of the parents and the Cosmo Oasis personnel in the semi-structured interviews who confirmed that most of the children were either unaware or unbothered by the situation of the missing documents but rather it is the parents who were most concerned.

All children that participated in the study stayed with at least one of their parents who in all cases was the mother and/or siblings. Two of the learners stayed with both parents. It emerged during the semi-structured interviews that some families had been separated from their nucleus and extended families as the children stated that they had left some of their siblings and extended families in Zimbabwe, as was the case with learners 1 and 3. Although these children were happy to be at Cosmo, they demonstrated a sense of attachment to their loved ones and missed their families that had remained back in Zimbabwe. The children also seemed to understand the sense of belonging to a country that they claimed to be theirs. Most of the children did not really associate documents like passports with education but with travelling form one country to another. It was clear that despite the passport being associated with travelling, not all children used passports to travel to South Africa. Learner 4 detailed how he unlawfully came to South Africa. He said:

Learner 4: I don't have a passport.

Me: *How did you come to South Africa?*

Learner 4: *At June, I border jumped.*

Another issue that arose was the issue of separation, attachment and the sense of belonging, and learner 1 had the following to say;

Me: *Okay. Is mama and daddy doing something to help you get the passport? Are they trying to do something to help you get a passport?*

Learner 1*:* *Yes*

Me: *What are they doing?*

Learner 1: *They didn't tell me.*

Me: *They didn't tell you?*

Leaner 1: *Yes*

Me: *Ok. So how do you know they are doing something?*

Learner 1: *[silence for about 8 seconds] Because they are working.*

Me: *They are working. So you think that if they are working, one day they are going to get a passport for you?*

Learner 1: *Yes*

Me : *Why do you really want this passport? [silence for about 6 seconds] Hmm?*

Learner 1: *To go back to my country.*

Me: *You want to… You don't like it in South Africa?*

Leaner 1: *I like it but, but I want to go see my cous, my, my, my aunties and my grandma.*

Me: *Oh, they are in Zimbabwe?*

Learner 1: *Yes*

Although learner 3 did not show much attachment and sense of belonging to his native country, he demonstrated a link between a passport and cross border travelling. He said:

Learner 3: *Also, also my brother.*

Me: *Your other brother. Is he bigger than you?*

Learner 3: *Yes*

Me: *How old is he?*

Learner 3: *He is, I think 9 years*.

Me: *9 years. Where is he now?*

Learner 3: *He's at Zimbabwe.*

Me: *Oh, he didn't come to South Africa?*

Learner 3: Yes

Me: *Why?*

Learner 3: *Because, because he don't have a passport yet.*

Me: *He doesn't have a passport yet. So you had a passport, that's why you came here?*

Learner 3: *Yes*

To establish the children's missing documents, I asked the children the question*, "Which document or documents do you not have?"* This question proved to be difficult and sensitive. For some children the question was difficult because some of the children did not understand the term "documents.'' I clarified the term by referring to the specific documents I meant by using the actual terms of the documents such as birth certificate, passport and permit. After using these terms, the children understood what I was talking about. Learners 1 and 2 clearly stated that they had birth certificates but they did not have passports. Learner 3 kept on changing his statements. At one point he stated that he had a passport, the next statement was that he did not have the passport and that he had skipped the border. It was later ascertained from the parent during the semi-structured interviews that the child did not have a passport. Leaner 4 had a birth certificate and a passport but had no permit. The inconsistences on the available or missing documents were also prevalent amongst the parents' questionnaire and semi-structured interview responses, however, it was confirmed in the semi-structured interviews with the parents that all children did not have permits and only learner 3 and 4 had passports. The permit was the most important document that was required by the schools from foreign children to be enrolled in public schools as expressed by the parents and the Cosmo Oasis personnel.

It was notable to me during the semi-structured interviews with the learners that some of the leaners had little knowledge of the document issue and they were not sure of which documents they had or which ones were missing. Some of the learners were uncomfortable discussing the

document issue, especially learners 1 and 3 who exhibited discomfort by not opening up to respond to the questions or elaborate their answers on the missing documents.

The semi-structured interviews with these two learners were often characterised by silent moments. I had to switch from English to Shona for learner 3 to get some responses from him. Leaner 2 and 4 opened up a little bit and expressed that not having the identification documents made them feel bad and not happy respectively. I tried to probe further by asking the questions differently, but the leaners could not explain further. The other reason why these learners could not explain further was because they did not really understand the value of these documents, for example, learner 4 clearly said that she did not know the value of a permit. Leaners 1, 2 and 3 associated the importance of documents, specifically passports, with cross border travelling as highlighted earlier. When I tried to probe further as to why some children were not going to school the issue of missing documents did not come up from the children, but rather the children associated not being in school with lack of money and failure to be accommodated ata school. The interview between me and learner 3 went as follows:

Me: *Why are some children not going to school?*

Learner 3: *Maybe they don't have money.*

Me*: Ok. What else?*

Learner 3: *Or maybe they can't find a school.*

Me: *Why is it difficult for people to find a school?*

Learner 3: *Because, because some, some parents they, they, they are tired.*

Me: *Oh, of what?*

Learner *3: Of walking*

Me: *Why?*

*Learner 3: Because, because they'll be walking around looking for the schools.*

Me: *So they go to this school and they cannot find a place for their children?*

Learner 3: *Yes*

Me: *Why do you think they cannot find a place for their child?*

Learner 3: *Because [pause for about 13 seconds] because they, they, they [pauses for about 5 seconds]*

Data from the semi-structured interviews with the children highlighted that Learner 3 did not comprehend much about children's rights to education. Two of the four learners demonstrated

some knowledge of children's rights in general. One of them, Leaner 3, a boy aged seven tried to demonstrate some knowledge about children's right to education and the effects of not going to school. Learner 3 was the reserved one, the one who would not respond to some questions and the one I had concluded had language barriers and went straight to the point when responding to the questions about children's rights. He said, "*Children have a right to go to school*" (Interview, Learner 3, 2019). I took this interview further and it unfolded as follows.

Me*: Yes. Children should be at school. What's wrong if children are not at school? [Short pause for about 7 seconds] What is wrong with that?*

Learner 3: *They will, they will know nothing.*

Me*: They will know nothing. And what's wrong with that, when you do not know*

*anything?*

Learner 3*: They gonna be [5 seconds pause] People who walk in the streets.*

Leaner 3 captured the effects of not receiving an education. From his comment it can be argued that he was saying failure to receive an education can produce idle, ignorant and delinquent youths who do not contribute to the economy of the society.

Learner 1 responded to the question by making reference to the violation of children's rights through child employment, corporal punishment and also mentioned that children had a right to play. Learner 1 had the following to say:

*"They said children do not have a right …Children don't have a right to, to work.*

*"…children don't have the right to, to get beaten by people that they don't know."*

*"Children have the right to play."*

Learner 2 did not know of any children's rights whereas learner 3 precisely captured the children's right to education and children's general rights by stating the following:

*"Children have a right to go to school…children have a right to, to um eat healthy things."*

Learner 4 made reference to children's right to a place to stay, right to learn and the right to eat healthy food. Learner 4 said the following:

*"In children's rights they're saying you need to have a place to stay…and learn…and eat healthy food."*

From the above interview responses by the children, it can be argued that three of the children who took part in the study had some degree of knowledge of children's rights in general but not the right to education for learner 4. Most of the parents also demonstrated lack of knowledge of children's right to education as shall be discussed in the next section.

### 6.5 Parents' voices

A parent of each of the children who took part in this study completed the questionnaires. There was a 100% questionnaire response rate by the parents although not all questions were responded to. Refer to Appendix F for the parents' questionnaire. The parent questionnaire covered the biographical information about the parents, whether they had documentation and what they understood by inclusive education and the GDE online school application system.

Data from parents was also collected through individual semi-structured interviews which gave me an opportunity to probe further the information that the parents had stated in the questionnaires. See the parents interview schedule in Appendix B.

#### 6.5.1 Parents' biographical information

This section summarises the biographical information of the parents who took part in the study such as age, nationality, education status, duration of stay in South Africa and available and/or missing identification documents. These variables were key in understanding, describing and identifying trends and relationships of the status quo of the parents in relation to the study under investigation. Responses to these biographical questions are summarised in Table 6.5.1.1 below.

**Table 6.5.1.1 Parents' biographical information**

| Criteria | Parent 1 | Parent 2 | Parent 3 | Parent 4 |
|---|---|---|---|---|
| **Gender** | Female | Female | Female | Female |
| **Citizenship** | Zimbabwean | Zimbabwean | Zimbabwean | Zimbabwean |
| **Age** | 26-33 years | 34-41 years | 26-33 years | 42+ years |
| **Duration of stay in South Africa** | 1 month to 5 years | 6 to 10 years | 1 month to 5 years | 6 to 10 years |
| **Parent's legal documentation** | None | Permit | None | Permit |

The mothers of the children availed themselves for questionnaire completion and for the semi-structured interviews. I had requested the Cosmo Oasis personnel to help with arranging that I get parents and their children as participants for this study.

The citizenship of the parents was crucial as it was meant to establish the groups, by nationality, of people mostly affected by the absence of legal identification documents. Although all of the parents who took part in the study were from Zimbabwe, the Cosmo Oasis personnel confirmed that most of their learners in 2019 were from Zimbabwe, notwithstanding the fact that there were three learners from Malawi.

The age of the parents was required to find out if the parents were old enough to be in a position to process identification documents for their children. Two of the parents fell in the twenty-six to thirty-three years range. One parent was between thirty-four to forty-one years range and parent 4 was in the forty-two plus range. These parents were therefore old enough to be concerned about their children's identification documents and process them as well.

All parents had been in South Africa for a period of not more than ten years and none of the parents were born in South Africa nor had been in South Africa for more than 10 years by 2019. With regards to the legality of the parents' stay in South Africa, it was established that Parents 1 and 3 were in South Africa illegally because they indicated that they did not have any document to legalise their stay in South Africa. Parents 2 and 4 claimed that they were legally in South Africa because they were permit holders.

There was a relationship between the parents' duration of stay in South Africa and the acquisition of legal documents to stay in South Africa as shown in Table 6.5.1.1 above. Two parents who had stayed in South Africa for a longer period, between six to ten years, indicated in the questionnaire that they had permits and two of the parents who had been in South Africa for a period of one month to five years did not have any legal document to be in South Africa.

### 6.5.2 Knowledge of children's rights and the online school application system

Findings from the questionnaires and semi structured interviews showed that most parents were not aware of regulations that protect children's rights nor the Gauteng online application system as tabled in Table 6.5.2.1.

The table below captures the responses of the parents to some questions on the questionnaire.

**Table 6.5.2.1 Table showing parents' knowledge of children's rights and the Gauteng online application system**

| Question | Parent 1 | Parent 2 | Parent 3 | Parent 4 |
|---|---|---|---|---|
| **Do you know of regulations that protect children's right to education?** | No | Yes | No | No |
| **Do you know of the Gauteng online school application system?** | No | Yes | No response | Yes |
| **If you answered yes, above, how would you rate the effectiveness of the GDE online application system as a way of enrolling learners in schools?** | No response | Poor | No response | Fair |

Only one parent, Parent 2, demonstrated knowledge of regulations that protect children's rights. The rest were not aware of any regulations that protect children's rights. I made a follow up question that required parents to explain further if they knew of any regulations that protected children's rights. Again Parent 2 responded to the follow-up question and the rest of the parents did not respond. Parent 2 responded in the interview by saying the following: *"That all school children must be registered for school, documented or undocumented"* (Questionnaire, Parent 2, 2019). This parent seemed knowledgeable of some regulations that ensure that all children get access to education regardless of their documentation status. There was a congruent relationship between the children and their parents with regards to awareness of children's

rights to education. Findings from the children and parents revealed that most learners had no knowledge of the children's rights to education. One of the GDE officials who took part in the study also confirmed the parents' lack of knowledge of children's rights evident by their failure to take responsibility and do all they can to find information and get their children enrolled in schools as shall be discussed later.

Many parents were not aware of the Gauteng online application system that was introduced in 2016 for the 2017 academic year. This online application system was to be used by all those in the Gauteng province beginning Grade 1 and Grade 8 in the 2017 academic year going forward. If a parent had been to any public school in Gauteng to enrol their children, chances that they would have been made aware of this process by the school, are very high. It is therefore evident from these findings that only two of the four parents had tried enrolling their children in the public schools. This was confirmed by some parents who acknowledged that they had not tried enrolling their children into schools or get them documents because they depended on hearsay that it was difficult.

The two parents, Parent 2 and 4, who had claimed knowledge of the Gauteng online application system, rated the effectiveness of the system as a way of enrolling learners in schools. The two parents rated the system poor and fair respectively as shown by Table 6.5.2.1. The two parents that did not rate the online application system had indicated that they did not know about the Gauteng online application system. Parent 2 who had rated the system as poor pointed out that *"Some children don't get places for school and it's a long process especially for the elderly who can't use the internet"* (Interview, Parent 2, 2019). Parent 4 who rated the system as fair wrote that *"I applied online but when I went to the school they refused everything, they said I must bring proper documents that I did not have at that time"* (Interview, Parent 4, 2019). It was notable that both parents who rated the Gauteng online application system did not write-off the Gauteng online application system but rated it as an inefficient system that does not work for everyone. Parent 2 described the system as a tedious process that is difficult to use for those with minimum technological expertise. Parent 4 claimed that the system worked/ works, but the problem was at school level where the missing identification documents were required. The parents' views were in contradiction to the GDE official 1 who was an expert inthe GDE online application system. She rated the GDE online application system highly and blamed the parents for not doing enough to get all the information necessary to get their children enrolled for school using the GDE online application system, as shall be discussed later.

### 6.5.3 Reasons behind children's missing legal identification documents

The talk around missing documents proved to be a very sensitive discussion based on the inconsistencies that arose in the responses of some parents and the children. It is acceptable for the children to display inconsistencies in their responses to questions regarding documentation as they did not comprehend much about the documentation issue. However, the same trend of inconsistences was prevalent even in parents' responses in the questionnaire and in the semi-structured interview responses. Nevertheless, it was confirmed in the semi-structured interviews that all children did not have permits and only learners 3 and 4 had passports. Parent 1, who had indicated in the questionnaire that she did not have any legal document to be in South Africa, changed her view during the interviews by claiming that she had a permit. It also emerged through follow-up questions during the semi-structured interviews that one of the learners, learner 4 who was born in South Africa had the South African unabridged birth certificate which the parent claimed was not working in the public schools. This parent had this to say: *"When you go to government, they say the unabridged isn't working; they don't recognise that one*" (Interview parent 4, 2019).

Parents gave several reasons behind the missing documents. The common reason was the socio-economic situation in Zimbabwe, citing problems such as the shortage of the paper that is used to produce the passports in Zimbabwe. Parent 3 attributed the missing documents to theprocess of permit application being difficult and expensive. Three of the four parents indicatedthat they had tried to process documents for their children but parent 3, whose child had no birth certificate, said that she had not tried to do anything. The following are some of the reasons the parents reported to be hindering them from processing their children's documents.

**Parent 1**

*Uh, you know [chuckles] right now in Zimbabwe you cannot, it's not easy to take the passports.*

*Uh, [chuckles] I don't know the main reason but I think it's because of the situation of the country. You see now it's not uh, proper in Zimbabwe.*

*But it's just that you can take [apply for] the passport in Zimbabwe, but it won't come out.*

Me: *Have you tried going to other schools?*

Parent 1: *I haven't tried. I want to try now, but I hear from people that it is difficult, they want papers; I haven't tried myself.*

Me: *Ok*

Parent 1: *I only hear from others saying it's difficult, they won't allow the kid because you don't … because of papers, so you end up going to amaprivate [the private] schools.*

This parent was associating the difficulty to acquire legal identification documents, specifically passports, to the poor economic status in Zimbabwe which she claimed was not proper, referring to the ill functioning economic system of Zimbabwe. She further acknowledged that she had not put effort into trying to go to schools in person to look for a school place for her child because she had heard from other people that it was difficult.

**Parent 2**

*Like now I was trying to, but with the situation in Zimbabwe they are saying there's no paper for, for the passports.*

**Parent 3**

*Because if you, like if you don't have money like now, and it's a long process to take a permit for a child.*

*Also, you don't have, also I think they say you also need to have a work permit, then they can sort it for the child.*

*It's a long process to take them. Because you also have, need to have papers here, they need to take them. Its's a long process, I agree, but I have to do something. Like now I 'm not gonna lie, I haven't tried. I was meaning to try maybe this coming December* (Interview, Parent 3 2019).

Parent 2 reiterated the sentiments of Parent 1 that the situation in Zimbabwe was hindering them from acquiring passports. Parent 3, just like parent 1, also confirmed that she had not put effort into looking for a school place for the child. She claimed that financial constraints were limiting her in processing papers but again indicated that she was basing her assumptions on how she thought the system of acquiring paper worked, not what she really knew.

**Parent 4**

Me: *Did you try to go to the Department Home Affairs to get a permit for your child, basing it on your permit?*

Parent 1: *Yes, they say you must go to Zimbabwe. They say the child must go and get her study permit in Zimbabwe.*

Parent 4 reported that she had tried going to the Department of Home Affairs to acquire legal documentation for her child basing it on her being legally in South Africa, and she was told to process the study permit for the child in Zimbabwe.

Although the parents gave several reasons why their children did not have permits, the general observation was that some parents had not tried to do anything to get their children's papers sorted out. They had not even tried to go physically to schools or to the department of education offices to find out more on what they could do to get their children into school. Some parents even depended on hearsay that the process of applying for papers was tedious, difficult and expensive.

### 6.5.4 Experiences of being undocumented

Parents had varied descriptions of how their children experienced living without identification documents that ranged from disappointment to not knowing about the missing documents. Findings from the children highlighted that children were not really troubled by the missing documents, and this was reiterated by the Cosmo Oasis personnel as well. However, Parent 1 said that her child is disappointed, and he often asks" *Why, why don't I have a passport? Why don't you just take me a passport?"* (Interview, Parent 1, 2019). The mother went further to explain that she often doesn't have answers and the child does not understand why the parents have passports and he did not have a passport. Parent 1 contradicted herself comparing her response in the questionnaire with her response during the semi-structured interviews. She claimed not to have any document to be legally in South Africa in the questionnaire, but stated that she had a passport in the interviews.

The other three parents stated that their children did not really know that they did not have legal documentation to be in South Africa legally. This could have been true especially for learner 3 who showed that he really did not understand the documentation issue during the semi-structured interview. These parents went on to state that the children were happy as long as they were at "school," Cosmo Oasis. These answers were in consensus with the children's answers with regards to how they felt about being at Cosmo Oasis and not in the other schools and how they related in the community with their peers.

The parents also expressed how it felt for them to have a child without legal identification documents. The parents did not feel happy with the situation, and they expressed it in different ways. Parent 1 said that she felt sad because she knew that one day the child would have to leave Cosmo Oasis and it was difficult to find space for him at another school. I probed further to find out what she was going to do with the situation. The parent said that she was going to resort to independent schools because they do not ask for documents as the other schools do. She was however worried that identification documents would be required at some stage, such as when writing final exams.

Parent 2 said that she is so negatively affected by the issue of the missing documents. She said that *"It is so painful…I just don't feel comfortable not knowing that my child is not safe even to go to a clinic or a hospital. It's not comfortable knowing that your child cannot access medical facilities or go to school"* (Interview, Parent 2, 2019).

Parent 3 stated that "*It's something terrible because me I was looking, trying to look for a place in other schools and they were telling me that without a permit they can't take the child. So we end up going to the "private ones and they are really expensive"* (Interview, Parent 3, 2019).

Parent 1 who had taken her child to an independent school had this to say: "Because *there, where she was going it was a private school but it was a small place, it was a house. So its's a small place, no playground, no…nothing, they just come to school, they get into class, they eat in class, they don't play, there's no outside running or break time, they are just inside they just eat there, they study there, then they go home* (Interview, Parent 1, 2019).

The comment above from a parent who had witnessed how the backyard schools were operated, succinctly summarises the adverse state of such schools. They achieve little to poor quality education, if any, as children were confined to tiny rooms with very little movement or activities that could help them to develop holistically.

Parent 4 seemed to have accepted the situation. She responded to the question by saying that *"I just live with it"* (Interview, Parent 4, 2019). After outlining the inconsistences around missing documents and reasons for being undocumented, parents highlighted the options that they had for educating their children.

### 6.5.5 "Alternative'' ways of educating children without documents: Parents' perspective

Having failed to access the public schools due to missing documents, the general feeling of parents was to resort to independent schools. The extreme case was one of resorting to faking documents and get the child admitted in the public schools. Parent 1 said that she was going to resort to independent schools that only require birth certificates. She also cited the option of sending the children back to Zimbabwe to a boarding school as there was no one to stay with the children and attend a day school. Parent 1 had this to say *"Maybe I'll send him back home or boarding school. Cause the reason why I'm with them, there's no one home there, I cannot give them to anyone, there's no one. But when he's form 1 he'll be able to go to boarding school" (Interview*, Parent 1, 2019). Parent 2 was trying to renew her child's passport but was being let down by the delays in the processing of passports in Zimbabwe. Parent 3 said that the only option was to send the child to independent schools which were very expensive as they demanded a deposit of R500 and fees of R500. This was too much compared to the once-off donation of R200 at Cosmo Oasis if the parents could afford the donation fee.

Whilst other parents were more aligned to resorting to independent schools, parent 4 had a different strategy. She stated that she was going to resort to faking documents because it had taken her long to get legal documentation and she anticipated that faking legal documents would assist her child to get access into school. She claimed that *"We don't have a choice we had even planned to do this illegal document because we 've been trying to, eish, to get to school and say do the fake one maybe she's gonna get a school place"* (Interview, Parent 4, 2019).

Some parents were of the idea that they should be given the opportunity to educate their children with the intervention of the governments of South Africa and Zimbabwe. Parent 1 suggested that the South African Government should assist foreigners with permits or asylums to let the innocent children access education. She went further to suggest that the Zimbabwean government should be understanding and release the passports that have been applied for. The following discussion ensued between the parent and myself:

Me: *What do you think can be done, and you tell me by who, to help children get legal identification.*

Parent 1: *Uh, first of all, maybe in Zimbabwe we can't, they must at least understand we are*

*here as foreigners, we need to have passports. And even here...give us permits or asylums, you know, at least for the kids to go to school. You know these kids they don't know anything…so they can, if they can give us documents for the kids only to manage to go to school, I think that will be better.*

Parent 2 felt that the South African Government should let the children go to school with whatever available documents they have. These were also the sentiments of parent 3 who suggested that they should be provided with an easier and cheaper way of applying for the permits. Parents 2 and 3 had the following to say:

*Parent 2: They can just, they just let us, um, let our kids go to school. Yes, as long as maybe he or she has a birth certificate.*

*Parent 3: I think they should just say if the child already has the passport (chuckles) they should accept the child and give us a better process to apply for the permit, study permit so that children don't suffer when they go to schools.*

Lastly, parent 4 felt that if the parent is legally in South Africa, then the children should also be documented on the basis of the parent's available legal documents. She said the following:

*"I think for kids like (name withheld) they must look at maybe like me as a parent I've got a permit. And they must take my child at school based on my permit. I'm staying legally in South Africa, then they can fix or they can give them some birth certificate, or they can give us study permits based on their parent's permits. So that's me I 'm staying in South Africa, my child can also study in South Africa…because I am not illegal so they can just give them a permit even if it's a renewable one so that when my permit expired then, them also expire, they can renew again and if I renew, they renew again."*

These were the suggestions that were provided by the parents as a way forward to help children without legal documents access education in South African public schools. In the next section, I discuss the views of the GDE officials.

**6.6 GDE officials' voices**

Two GDE officials who participated in the study were experts in the fields of inclusive education and GDE online applications. The two were based at one of the education districts

in the greater Johannesburg area. GDE official 1 was an expert in the field of inclusive education and GDE official 2 was an expert in the GDE online application system. The semi-structured interview schedule had two sections of questions that is, inclusive education and GDE online applications. Refer to appendix D for the schedule for the semi–structured interviews with the GDE officials. GDE official 1 who was an expert in inclusive education declined to have her semi-structured interview audio-recorded nor to respond to the questions that had to do with the Gauteng online application system. She cited that she was not qualified to give a true reflection of the Gauteng online application system. She felt that she would not do justice to the questions regarding the system. GDE official 2 was an expert in the field of the Gauteng online application system. She agreed to have her semi-structured interview recorded and to respond to questions in both sections of inclusive education and the Gauteng online application system.

### 6.6.1 The extent of inclusivity of the South African education to undocumented children

Both officials were asked to rate the degree to which South African education is inclusive to all. Both experts indicated that the South African education system was fairly inclusive even to children without legal documents. However, Official 1, the specialist in inclusive education, was rather hesitant in rating the effectiveness of the implementation of inclusive education in South Africa. She later rated the effectiveness of the implementation of inclusive education in South Africa by giving it a three on a scale of one to five indicating that she had some reservations. She said:

> *"It is inclusive but, (pause) more can still be done to reach out to all leaners. Some are not reached out especially in rural areas due to lack of awareness and limited resources. The urban areas are better because people there are more outspoken, exposed to heightened awareness and more engaging with social media."*
>
> (Interview, GDE official 1, 2019)

From the excerpt above, Official 1 argued that the South African education system is inclusive but that there are notable differences in urban and rural areas due to differences in exposure to information between the two environments. This view was however contrary to findings from the parents who took part in this study. The parents were from Cosmo City, an urban area, but they still had limited to no knowledge with regards to what exactly is happening in the

education arena, specifically the GDE online application system and provisional acceptance of children without legal documents. Two of the four parents who completed the questionnaires were not aware of the GDE online application system, yet they were situated in an urban area, Cosmo City.

GDE official 2, the expert in the GDE online application system, rated the implementation of inclusive education and the GDE online application highly. She gave both systems an eight out of ten. For inclusive education, she argued that "*…because, if I say ten, it means the system is perfect…and there is nothing perfect about a system…"* (Interview, GDE official 2). She explained how the inclusive system caters for different learning abilities, different socio-economic statuses and even for children without legal documents. By saying that the South African education system is inclusive to all children, even to the children without legal documents, Official 2's view was contradictory to the parents' views who reiterated that they were excluded from the education system. The Cosmo Oasis official also explicitly resonated with the parents by stating that the children without legal identification documents were failing to gain access into public schools and that their centre was "*…helping those who were excluded… because of their document issue"* (Interview, Cosmo Oasis personnel, 2019).

### 6.6.2 Protection of children's right to education

Unlike the parents, the two officials demonstrated knowledge of children' rights and outlined regulations that protect children's right to education. Official 1 mentioned the following: the South African Constitution that ensures that children have a right to learn and be provided with basic amenities such as teachers, textbooks and nutrition; the South Africa Schools Act (SASA) that she said overlaps and is drawn from the Constitution; and the Screening, Identification, Assessment and Support Policy which she said is used for placement and identification of further support for the learners. Official 2 also stated the Constitution, the Bill of Rights and the SASA stipulate that it is compulsory for every child of school going age to receive education. Official 2 mentioned that the Constitution protects all citizens of the country, but earlier she had alluded to the fact that even children without documents should receive education. It was noted that the GDE officials had sound knowledge of regulations that protect children's rights and the reverse was true for the parents and the children.

Both officials felt that the children's rights to education were observed and respected. Rating the extent to which the children rights are observed and respected, Official 1 rated the system a three out of a five arguing that most children who were meant to be in the mainstream schools

were at school, and that if children who are meant to be in special schools were not there then their right would have been violated. I probed further on what happens with children without legal documents and education and she acknowledged that the question of admitting children without legal documents in schools is a difficult one, she said: "…*tough question… we admit the child and give parents 3 months but the Department of Home Affairs will come and say you are harbouring aliens"* (Interview, GDE official 1, 2019). This comment resonated with parents who felt that the South African education system was exclusionary to immigrant children without legal documents. Official 2 claimed that the children's rights were respected to a larger extent in that there were measures in place for all children to be at school regardless of the socio-economic status of the parents in the form of fee-paying schools and non-fee-paying schools. She also alluded to the availability of special and independent schools that are subsidised by the Department to cater for the special needs and different economic standards of parents respectively.

Official 1 singled out the following that she deemed responsible for children's rights: the parents, the Department of Home Affairs, Department of Social Welfare, Department of Health, Department of Education, and the community at large. The parents were regarded as having the responsibility to provide for their children's basic needs and education. The official said that parents *"Have a responsibility to provide for their children's basic needs, it is a right in fact. At an appropriate age the child is enrolled, stays and supported throughout the journey"* (Interview, GDE official 1, 2019). The official said the Department of Home Affairs must ensure that there are documents such as birth certificates to facilitate placement and the Department of Social Welfare comes in if the child's safety is threatened. Likewise, the Department of Heath should provide basic medical help to ensure that the child is healthy to attend school. The Department of Education oversees teachers, school nutrition, and extra mural activities. The community, composed of neighbours and schools, should be interested in the education of the child and report to relevant authorities in the event of unattended or undocumented children in the community. GDE official number 2 also emphasised the role of the parent as the primary caregiver who should be responsible for the child's admission to school and to report the needs of the child for the system would not know the special needs of a child if it is not reported by the primary caregiver. She also singled out the state as being responsible by providing facilities to ensure that learning takes place.

The two officials agreed that the parent was the primary caregiver who should be responsible for the education of the child, however, findings from parents demonstrated that some parents

had not done much to ensure that their children got admitted into schools or to get the legal documents required for school admission. This was observed from their utterances when some of the parents stated that they had not done anything to get legal identification documents for their children as previously outlined by Parent 3, quoted earlier in section 4.4.3.

### 6.6.3 Views on the GDE online application system

As highlighted earlier, only GDE official 2 responded to questions in this section. The effectiveness of the online application system was rated eight out of ten, because according to GDE official 2 the criteria used for anyone to be admitted into the system accommodates all citizens and people of different socio-economic statuses. Parents reportedly had several options to choose from to enrol their children into schools, such as schools near their residential area, or near parents' workplaces, or schools where the other siblings are attending, or schools within a 30 kilometres radius. She also said that she rated the effectiveness of the online application system an eight out of ten because there will always be preferred schools that parents want because of the schools' pass rate, management or facilities, but not falling in the demarcation of the Gauteng online application regulations, that parents want but will fail to get.

GDE official 2 acknowledged that parents have mixed feelings with regards to the experiences of the current online application system. Some parents are happy and some are not happy. She stated that unfortunately, it is difficult to make everyone happy. She reiterated that parents may not be happy with school placement, but children will be at a school. Findings from the parents revealed that the parents in this study had no choice, they could not even afford any public school, and hence are resorting to Cosmo Oasis. The parents outlined that there are explicit requirements for successful school admission for immigrant children and the common document singled out was the permit. In consensus, GDE official 2 said these requirements were: an identity document of the child and of the parent, utility bill that would act as proof of residence, clinic card for grade one, and a transfer card for grade 8. I probed further with the GDE official 2 on what happens with children without clinic cards because they were not born in a clinic. The official responded that in the absence of a baby clinic card (that acts as proof of a birth record), people who were not born in clinics and hospitals should have a witness in the form of traditional leaders such as chiefs or kings who can be witnesses to the birth of the child so as to facilitate the processing of the legal identification documents. From the GDE official's perspective, there are specific documents required for successful registration on the

GDE online platform and this is a hindrance to immigrant children who do not have these documents.

### 6.6.4 Issues around school admission of children without documentation

There were several challenges that came with being undocumented and the GDE official foregrounded the responsibility of the primary caregiver to ensure that children under their care have birth certificates whether the child was born in the rural areas or was an immigrant. With reference to migrants, she acknowledged their presence and the need for legal identification documents by commenting that:

> *"Even with the migrants, there is nothing wrong with people coming in because of migration and other problems in their countries, but whether you are legal or illegal go to the embassies, give them your story, ask them to help you so that you have some kind of document to prove that you are here."*
>
> (Interview, GDE official 2, 2019)

Official 2 did not underestimate the importance of legal identification documents and at the same time, clarified that all children could access education in South Africa. She stressed that if the legal identification documents were missing at the time of applying for school admission, parents should consult their embassies to help with some form of documentation.

There are financial implications of admitting children without documentation. Admitting children without legal documents into public schools has negative effects on the South African government in general and the budget allocated for schools in particular. The South African government is negatively affected in the sense that the government invests in educating children without legal documents who are provisionally accepted into the education system and end up going up to matric level using taxpayers' money. Official 2 explained that:

"*So, if you are not documented how do we then say taxpayers must pay for you? Because remember the whole system depends on taxpayers' money. So, I think the only way that people can account that we have 10 children that the taxpayers are supporting and these are the documents to prove that they are 10"* (Interview, GDE official 2, 2019).

She also emphasised the importance of accountability that lies with the Department of Home Affairs:

"*They (the Department of Home Affairs) should be able to account for everyone who is in the country and everyone who is using taxpayers' money. Because at the end, if when they do the budget, they say they are giving education a budget of 1 billion and we have people who are going to spend more than R1 billion. The at the end, that service that the government is rendering to people won't be feasible because the budget is lower than the people that they are servicing.*

(Interview, GDE official 2, 2019)

From the above explanation, children without legal documentation use resources that are not specifically and rightfully allocated nor are entitled to them, having adverse financial implications on South Africa and repercussions on those who have to account for the use of funds. Most parents in this study wanted to legalise their children's stay in South Africa and this would be in consensus with the official that all children should be accounted for on the basis of their legal documents to prove their existence and make it easy for resource allocation. The GDE official does not recognise that the system is not working and that the people do not get their documents despite all the effort they put in.

### 6.6.5 Way forward for children without legal documents: GDE official views

It was noted that children without legal documents are provisionally accepted for three months, and that these children were however not expelled at the end of the three months' grace period. The children would continue with school but would not receive a certificate at the end of the twelve years. The GDE online application expert said *"In an ideal situation we would take them out, but we don't. But at the end of grade 12 they are not certificated"* (Interview, GDE official 2, 2019).

There is no value in investing twelve years in education, writing a matric examination, and not getting a certificate at the end of the twelve years. It will be twelve years in vain.

All parents who were interviewed did not know of the three months' provisional acceptance that the Department of Education officials reported about. Only one out of the four parents had been to the schools in person in vain to try and get their child admitted in school indicating that the parents had not done enough or explored all alternatives to get their children into schools.

Official 2 said that if parents wanted information they would have to go and get it. She said that if parents who were facing problems with enrolling their children into schools were serious about the education of their children, they would visit their offices for more information. This was contrary to what some of the parents were doing, in that no parent had visited the educational offices, and only two parents had been to public schools in person to try and get their children enrolled in schools. In the case of immigrants without permits, official 2 said that these children too can successfully apply for online application using their birth date and add some zeros to the date of birth to give sufficient digits required for an ID number. This is the information that the parents who were interviewed did not have and they would not get such information unless they visited the Department of Education offices. At no point did the GDE official point out how they make such information known to the parents. The departmental officials reiterated that the parents will only get to know of this information if they visit the education offices.

### 6.7 Findings overview

The thrust of this study was to investigate and describe the experiences of children without identification documents and notable tension between human rights in the context of the Article 26 of the UDHR, specifically the right to education, conditions for the realisation of this right and inclusive education in South Africa. The findings from the data analysis of this study were consistent with Murungi (2015, p.8) who claims that "the inclusive education discourse is one of the most acclaimed yet controversial recent developments on the right to education" because an analysis of the data from this research testified to the controversy between inclusive education and human rights. I intended to answer the following two questions: Is the South African inclusive education system really inclusive to all children? What is the implication of South Africa's laws and practices with respect to children's legal documentation and the right to education?

The children did not demonstrate knowledge of inclusion but expressed that they were happy to be at Cosmo Oasis. The parents expressed that the South African education system was not inclusive because their children had been left out of public schools. On the other hand, the Cosmo Oasis personnel and the two GDE officials felt that the South African education system was partially inclusive, and inclusive, respectively. The Cosmo Oasis personnel was of the view that the South African education system was partially inclusive because there was some anecdotal evidence of children from Cosmo Oasis without documentation being admitted into public schools despite the admission of such children being based on some criteria such as

intelligence. The GDE officials expressed that the South African education system was inclusive to all but some parents and caregivers did not adhere to the correct processes and channels of getting placement for their children even if they were undocumented due to varying reasons.

Furthermore, there were various implications of South Africa's laws and practices with respect to children without legal documentation that range from social, economic and political effects. The effects were evident across all participants' responses. These effects included potential separation of families as some parents contemplated sending children back to their native countries, exclusion of children without documentation, the prevalence of idle uneducated children, increase in corruption, the rise of unregistered schools, and the continuous labelling of the South African education system as exclusive, among other effects.

Additionally, all the parents who took part in the study displayed a sense of hopelessness and helplessness in the face of the exclusion of their children from school. They did not know what to do nor where to turn to for help realising that their children could not be at Cosmo Oasis for too long, as there was a time when they had to leave Cosmo Oasis. The hopelessness and helplessness state of the parents was exacerbated by fear since some of the parents did not have the legal documents to be in South Africa, they stated that they were scared to go to the education offices to get information on how to resolve their situation.

### 6.7.1 Discussion of findings

In the context of this study, a contradiction that motivated this research was noted between the South African Constitution and the bodies that safeguard and promote human rights. The same contradiction was illuminated by the analysis of this study. South African inclusive education aims to promote citizenship, common values of human rights, freedom and tolerance by providing access, equity and participation in education by all (Department of Basic Education and Department of Higher Education and Training, 2011; Pather 2011). The "all" in this context could be interpreted to mean everyone living in South Africa. Nevertheless, the Constitution of the Republic of South Africa (1996) states that, "everyone has the right to basic education including adult basic education" (Constitution of the Republic of South Africa, 1996,p 1257). The word "everyone" in this context is limited to the citizens of South Africa to whichthe South African Government have a social contract with. Non-citizens, by virtue of having no legal identification document(s), are therefore excluded from this social contract. On the other hand, the UDHR outlines the universal inalienable entitlements everyone has in terms ofrights and

freedoms to foster healthy relationships between people and governments. Furthermore, the UN Convention on the Rights of the Child (1989) (OHCHR, 1996), and the ACRWC (1990), safeguard and protect the rights of all children. Additionally, the Office of the High Commissioner Human Rights (OHCHR, 1996) emphasises education as a social right,and it should therefore be enjoyed by all. However, the Constitution of the Republic of South Africa (1996, p.1243) articulates that the constitution is "…the supreme law of the Republic, law or conduct inconsistent with it is invalid." Anything contrary to the constitution becomes null and void.

Children were the thrust of my study, therefore I begin by giving the lived experience of children without legal documents followed by the parents' perspectives. This is followed by the views of the parents, Cosmo Oasis personnel and the perspectives of the GDE officials. The perspectives of the parents, Oasis Cosmo personnel and the GDE officials were organisedunder the same themes to avoid repetition. Where possible, these views were triangulated.

### 6.7.2 Children's views of education

As highlighted in the previous chapters and in the context of this study, children without legal documents refers to children without legal identification document/s or the legal right to stay in South Africa. These could be children of immigrants who came into South Africa for socio-economic reasons (Richard, Adams & John, 2005) or these could be children of South African natives without proof of birth (Macupe, 2018). The educational right of children without legal identification documents, in light of South African inclusive education, the South African Constitution and the UDHR, were the focal points in this study. Although my focus was on all children, it was noted in chapter 4 that children who took part in my study were all immigrant children from Zimbabwe by virtue of the nationality of the children at Oasis Cosmo at the time of the data collection.

The children who took part in the study were young in terms of their developmental age but it was very important that I gave them an opportunity to be heard by communicating their views and experiences at Oasis Cosmo and in the community at large. Giving children a voice was congruent with Clark (2005) who posited that children are vulnerable, active and competent and should be consulted and listened to. This was also in line with the children's rights discourse and the sociology of childhood, that states the importance to give children a voice. The same sentiments were echoed by the United Nations Convention of the Rights of the Child (UNCRC) that regards children as right holders who must be heard. In addition, Slee (2011)

recommended that researchers seek the understanding of marginalised groups so that these groups of people do not become objects of research. In numerous cases in my interviews with the children I had to switch from English to Shona to try as much as possible to have meaningful interviews with the children, and it worked. It emerged from my interviews with the children who participated in my study that the children were not aware why they were at Oasis Cosmo. The children had a positive sense of belonging to a school and they were happy to be at Oasis Cosmo although optimistic to go to other big or formal schools. The children did not feel excluded in any way. Despite Oasis Cosmo only providing basic numeracy and literacy skills in the interim as parents tried to get their children into formal schools, the children viewed themselves as being at school like any other children. They were happy at Oasis Cosmo and went further to associate themselves with a particular grade regardless of Oasis Cosmo not having specific grades. One learner, without prompting, stood up to show-off some mathematical skills which was testament that according to the children, learning was taking place as expected in any school. Therefore, to the children, there was no difference being at Oasis Cosmo or at any other school. Some of the children who took part in the study had attended "private school" within the community and later moved to Oasis Cosmo. The children demonstrated that they did not comprehend much about the differences between the "private schools" that were ill-equipped and the other formal schools. This could be attributed to the fact that these children had never experienced how it is like to be in formal schools. Upon being asked if they would like to go to the other schools besides Cosmo, all children indicated that they liked it at Cosmo Oasis and they did not mind being there. This shows that the children saw no difference by being at Cosmo City or at the other schools because they were merely children who did not comprehend much about what was happening around them and were happy to receive education. As highlighted earlier, the kind of education received by children at Oasis Cosmo was basic literacy and numeracy skills, Oasis Cosmo is not a school therefore the presence of children at Oasis Cosmo was evidence enough to show that some children were excluded from South African Schools due to missing identification documents, resonating with the international studies by Kugler and Price (2009), Dustmann and Glitz (2011) and by Meloni et al. (2017) who noted that undocumented children face barriers in education due to varying contextual factors. For Dustmann and Glitz (2011), barriers are a result of parental level of education, and migration status of the parents, whereas for Meloni et al. (2017), barriers are a result of unaccommodating legal and political aspects of host countries' policies and laws. This is because countries have put in place rigid systems that are tailored to serve their citizens, and governments are not prepared to be flexible enough to accommodate non-citizens in this world

where the world has been reduced to a global village due to migration.

### 6.7.3 Children and knowledge of rights

The children who took part in my study demonstrated basic knowledge of children's rights but did not comprehend much about children's rights to education, neither did they understand the importance of legal identification documents. Most children knew their right to play, right to a place to stay, right to eating healthy food, no child employment, and a glimpse of the right to go to school. One child was able to, at a child's accepted level, articulate the right to education and could link the lack of education to idleness later when the children grew up. This child's linking of education to success in later life is congruent with White Paper 6 which "outlines how the education and training system must transform itself to contribute to establishing a caring and humane society" (DoE, 2001, p.11). A humane society was earlier on argued as being characterised by consideration and acceptance of all humans despite differences. A humane society affords all individuals equal access and opportunities to succeed in life. Equally stressing the importance of education, Dustmann and Glitz (2011, p.329) pointed out that education was the main "determinant of wages…," hence the particular child was thinking way ahead in terms of the relationship between education and a successful future.

Regarding identification documents, children demonstrated that they did not know much about these neither did they understand their importance. The children were unaware of identification documents and struggled to answer questions regarding documentation even with me switching to Shona to clarify and simplify the questions. Only one child associated passports with cross border travelling. These clearly demonstrated that the issues of ensuring the availability of identification was not the responsibility of the children but adults, and that the children were not aware about them being out of formal schools due to the absence of documentation. However, I as the researcher, and other adults in this study, were privy to the fact that these children were not in formal schools due to missing documents. This resonated with the noted conflict between what is stipulated in the South African Admission Policy for Ordinary Public Schools and what really transpires in the schools noted about ten years ago in a study by Crush and Tawodzera (2011, p.3), who reported that "most school authorities do not give parents a chance to enrol their children while they try to secure the required documentation. The choice is documentation or no registration." This study conducted ten years later after Crush and Tawodzera's (2011) study showed that the status quo in the admission of children without legal documentation in South Africa in 2019, when data for this study was collected, was the same as it was in 2010.

### 6.7.4 Children's experiences in the community

The children were happy to be in the community and blended and fitted in well with other children playing age-appropriate games such as snakes and ladders, hide and seek, and so on. The children expressed no differences between themselves and their peers in the community. They did not mention actions to do with xenophobia, discrimination or exclusion in the community. The experiences of these children were in contradiction with the study by Hlatshwayo and Vally (2014) in Gauteng, Limpopo and the Western Cape, provinces with high numbers of immigrants and more pronounced xenophobic attacks. Most mothers of the immigrant children in the study by Hlatshwayo and Vally (2014) cited that xenophobic effects of trauma and fear affected both the mothers and the children. The mothers felt that they could not protect their children and the children felt the threat of discrimination. The findings from the study linked xenophobia to violence and crime involving the immigrant children, whereas this was not the case with children at Oasis Cosmo. Such difference could be attributed to different contextual factors from community to community or to the developmental age of the children who cannot always articulate or deduce even indistinct xenophobic tendencies, if there were there any. The status quo in the communities where the children resided were rather in agreement with the study by Reitzes and Bam (2002), who noted that immigrants were neither deported nor harassed by the local people and felt a sense of belonging and safety. The same sentiments were noted by Crush (2001) that not all immigrants had direct hostile or intolerant experiences, some reported that overall conditions were better than in their home country, this included education, health, sanitation and economic opportunities. The perspectives of the parents, Oasis Cosmo personnel and the GDE officials, were organised under the same themes to avoid repetition. Where possible, these views were triangulated.

## 6.8 The effectiveness of the implementation of inclusive education in South Africa

The thrust of the study rested upon the extent to which inclusive education is implemented in South Africa with regards to children without legal documentation. This question was directly asked of the GDE officials, Cosmo teacher and parents. The children were exempted from answering the question because their comprehension capacity in light of the concept of rights and inclusive education is limited. There were varied responses to this question that indicated the different perspectives held by the different participants in this study. The analysis of the findings with regards to the implementation of inclusive education are discussed below.

### 6.8.1 The GDE's perspective: South African education is inclusive to all

The two GDE officials who participated in the study were experts in the fields of inclusive education and the GDE online application system. When requested to rate the degree to which South African education is inclusive to all, both experts indicated that the South African education system was fairly inclusive even to children without legal documents. However, the specialist in inclusive education was rather hesitant in rating the effectiveness of the implementation of inclusive education in South Africa indicating that she had some reservations. This was congruent with the literature review of the theoretical framework that noted debates around the conceptualisation and implementation of inclusive education. The inclusive education specialist argued that the South African education system is inclusive but that there are notable differences in urban and rural areas due to differences in exposure to information between the two environments. However, with regards to the analysis of this study, even parents in the urban areas demonstrated that they had limited knowledge with regards to what exactly is happening in the education arena specifically the GDE online application system and provisional acceptance of children without legal documents. Two of the four parents who completed the questionnaires were not aware of the GDE online application system, yet they were situated in an urban area, Cosmo City. There was a notable link between the level of education of parents of the immigrant children noted a link between underachievement of immigrant children and their investment in their children's education. Dustmann and Glitz (2011) argued that the low education attainment of immigrant children is not an indicator of the host country's failure to educate the immigrant children, but a reflection of parental educational background of the immigrant parents coupled with the immigration status of the parents. Parents in the study by Dustmann and Glitz (2011) who had permanently migrated, tended to invest more in the education of their children, and the parents who had temporarily migrated did not invest much in the education of their children. This was the case with some of the parents in my study, the parents were in South Africa illegally and could not invest much in finding out ways to enrol their children into school taking into consideration the provisional admission for children without legal documentation as per the National Policy around admission of learners into South African schools.

The expert in the GDE online application system rated the implementation of inclusive education and the GDE online application system highly. She gave both systems an eight out of ten. The GDE online application expert was consistent with the Lawyers for Human Rights' (LHR) stance in the phenomenon of "a child is a child" noted in Crush & Tawodzera (2011,

p.8) that "…there should be no barrier to migrant children accessing the educational system in South Africa." Additionally, (Nieuwenhuis, 2007, p.33) noted that the Convention of the Rights of the Child treats children as "individuals with dignity who have all the rights of an adult human being, rights that should not be limited to some children but to all children." Therefore, from the human rights discourse perspective, inclusive education is an approach to education for all children based on the Convention on the Rights of the Child (CRC) and on the Convention on the Rights of Persons with Disabilities (CRPD) (Lansdown, 2014). Thus, from an analysis of the findings, half of the parents who took part in the study were not even aware of the GDE online application system as discussed above, and the 50 percent who were aware of the online admission system did not rate it highly as the GDE online application expert did.

The response by the GDE online application expert to whether the Education Department accepts children without legal identification documents was rather contradictory. The GDE online application expert response claimed that the Education Department used to admit the children but encourages them to get those documents. The response shows that according to the GDE online admission expert, legal documents are required for admission into schools, however, all children are admitted into schools regardless of their legal document status. This response supported the contradictions between the Constitution and the Admission Policy for Ordinary Schools and the practices of the Department of Home Affairs, alongside legislative gaps and inconsistencies in South African schools regarding the admission of children without legal documentation, who are in South Africa and unable to access education.

The South African Constitution Section 28. (1) p.11, states that (1) "Every child has the right—(a) to a name and a nationality from birth." A child should therefore have some form of identity document to prove their birth. Whilst the GDE online application expert did not underestimate the importance of legal identification documents, she at the same time clarified that all children could access education in South Africa regardless of whether they had legal identification documents at the time of applying for school admission. This resonated with the Department of Basic Education that reportedly commented in the IOL Pretoria News that "there are 998 433 undocumented children enrolled in public schools, many of whom are without birth certificates. Of these children, the majority (880968) are South African citizens" (Venter, 2019). This comment attested to the fact that children without legal documents were being admitted into schools.

Although children without legal documentation can be admitted into South African schools,

their admission is provisional. This is per Regulation 6 of The Regulations on Admission of Learners to Public Schools (2012). The GDE online application expert highlighted that these children are given three months to obtain the documents. On probing further on what happens if the legal identification documents are still not available after three months the GDE expert further explained that in an ideal situation the children should be taken out of the education system, however, these children are not taken out, but they would not be certified at the end of grade 12. This was in consensus with the study by Meloni et al. (2017) who reported that in Canada, children without legal documents were registered but considered unofficial and these children were denied their final diploma.

On the other hand, the expert in inclusive education acknowledged that the question of admitting children without legal documents in schools is a difficult one by noting the contradiction between the Department of Education and the Department of Home Affairs which 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.
>
> 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 instructions or training by the person who has control over such premises, unless *prima facie* evidence to the contrary is adduced. (Department of Home Affairs, 2002, p.62).

In light of the above statements by the South African Department of Home Affairs, it can be argued that access and participation in education by children without legal documentation is discriminatory and exclusionary. This treatment of children without legal identification documents is tantamount to moral or political inequality (Brumfit & Hall, 1973).

Accessing government schools is discriminatory and exclusionary for migrant children without legal documentation because of the gate keeping processes institutionalised by schools against the backdrop of the Department of Home Affairs stated above. It is difficult, if not impossible, to gain access to schools because the Department of Home Affairs is clear that learning institutions will only accommodate children with legal documentation to stay in South Africa

thereby excluding children without legal identification documents. Furthermore, the Department of Basic Education (2018) stipulates that for South African citizens to be admitted into public schools, a birth certificate, immunisation card and a transfer card or last school report card for learners who have been to school previously, are required. Additional requirements are required for non-citizens namely study permit/permanent residence permit from the Department of Home Affairs, or evidence that one has applied for permission to stay in South Africa.

The claims by the Department of Education officials above are contrary to the findings from the participants in this study especially the parents who labelled the education system as exclusionary. The parents' perspective with regards to the extent to which the South African education system is exclusionary resonates with the Mail and Guardian article by Macupe (2018) that reported of how Sonia, a Mozambican national who came from to South Africa in 1986, is failing to register her child for school. She said:

> "I started applying for school for him in 2016. I went to the district office of the Gauteng department of education and they said they would call me but they never did. I went again last year and they never helped me. He was supposed to have started school last year. There are many children in my area [Kaalfontein, Midrand] who do not go to school because they are undocumented. It hurts. It was hard seeing other children going to school and mine was not. He had even developed a habit of playing in the dumpsite because he had nothing to do — imagine!I t was really hard" (Macupe, 2018, Mail & guardian Online).

From a human rights perspective of inclusive education which is the lens used in this study, failure to admit children into schools is a violation of rights. Additionally, failure to admit children into schools violates rights that are designed to protect human values that are likely to be profaned as a consequence of international issues (Leib, 2011), which in the context of this study are migration and globalisation. Excluding children from education would seem a violation of what South Africa pledged allegiance to. South Africa is a signatory to Education for All (EFA) and the SDGs that campaign to prioritise spending and measures to secure the rights of all children to basic education as a developmental priority especially for the most vulnerable children (Martin, 2014).

### 6.8.2 Cosmo Oasis personnel's perspective: South African education is partially inclusive

Contrary to the perspective of the GDE personnel above that South African education is inclusive to all, the Cosmo personnel who was interviewed in this study, expressed otherwise. The Cosmo Oasis personnel highlighted that the main focus of Cosmo Oasis at its inception was on the youths, however, the aims were later broadened as dictated by the needs of the community, to include children without legal documents into their programme called "Baby Bridge the Gap." The admission of children without legal documents who the Cosmo Oasis personnel termed "undocumented kids" into the Cosmo Oasis programme, acknowledged the exclusion of children without legal documents from schools in the community as postulated by Keynan (2017) that immigrants are deeply affected by exclusionary practices.

These children referred to those who are admitted at Cosmo Oasis would have failed to gain access into schools due to the absence of legal identification documents, and Cosmo Oasis helps them with the basics in education whilst they are in process of getting their papers.

The analysis of the findings from the Cosmo Oasis personnel indicated a conflict with the claims by the two GDE officials who took part in this study that children without legal documents can be admitted into schools provisionally, specifically for three months whist they sought their papers. The Cosmo Oasis personnel was clear by highlighting that children from other countries who have no permits find it difficult to access schools, specifically government schools. She explained that their organisation ends up taking the children without documents as a way to help the children as their parents sort out the documentation issue. The Cosmo Oasis personnel was clear to emphasise that schools needed permits to admit the children into schools and I took it that she was reporting from experience that having a birth certificate and a passport as legal identification documents is not enough to be admitted into South African government schools for children who are immigrants as they are also expected to have study permits. Neither the Cosmo Oasis personnel nor the parents commented about the three months provisional acceptance claimed by the GDE officials and from that premise it can be concluded that parents did not know of the provisional acceptance or that the three months provisional acceptance was not being implemented in the schools that the parents had approached.

Although the Cosmo Oasis personnel pointed out that children without legal documents were excluded from school, hence their organisation ended up taking them, she acknowledged what I termed *partial inclusion* of children without legal documentation into the South African

education system. The Cosmo Oasis personnel cited some isolated cases where a few learners had been admitted into government schools without all the documents generally required for successful admission into school. She stated that a certain 'smart' (intelligent) boy got accepted in a government school in 2017 with a birth certificate and a passport as the only legal documents available when a study permit would have been a prerequisite for admission into school. She cited a few other cases of children who were admitted in schools after Cosmo Oasis had involved some social workers to assist the children. The admission of some children from Cosmo Oasis into government schools is evidence that some children without all the required legal documentation are accepted into schools but they have to go via some channels, for example the involvement of social workers hence my argument that this is partial inclusion since the admission according to the Cosmo Oasis personnel, was like a privilege of the intelligent children or those who involved social workers.

After having discussed the perceptions of the GDE officials and the Cosmo Oasis personnel I will move on to discuss the perceptions of parents of children without legal documents with regards to inclusion into the South African education system.

### 6.8.3 Parents' perspective: South African education is not inclusive to children without legal documentation.

Whilst the two GDE officials and the Cosmo Oasis personnel expressed that the South African education system is inclusive, and partially inclusive, respectively, the parents of children without legal documents stated otherwise. All the parents expressed that their children were out of formal or public schools as a result of missing documents that made it difficult for their children to be admitted into the government schools.

One out of the four children that took part in the study did not have a South African unabridged birth certificate but had a Zimbabwean birth certificate and a Zimbabwean passport. The other three children had South African unabridged birth certificates, but they had no passports or permits. All the children therefore had some form of legal documentation. Three of the children had some form of South African documents, the unabridged South African birth certificate that proved that they were born here yet they faced difficulties to be admitted into formal schools due to the absence of study permits. One of the parents explicitly stated that the unabridged birth certificate is not working. This was incongruent with a Cape Town attorney van der Heyde, who commented in 2017 in the Cape Argus that "without an unabridged birth certificate, everything is affected, from accessing medical assistance and social grants to schooling" (Davids, 2017). The attorney noted and reported to have filed notices with the

Western Cape High Court in Cape Town with regards to the department's refusal to issue unabridged birth certificates to foreign parents but issuing them with a notice of birth instead. The notice of birth "is not an identity document on which the child can be registered at school or obtain social grants" said van der Heyde in the Cape Argus (Davids, 2017). The parents of children with the unabridged birth certificates or the birth notices were in a dilemma as they could not register their children at school.

The parents stated the required documents with special mention of the study permit. This was the experience of one parent, other parents indicated that they had not tried that much to get their children into schools or to get the documents because they had heard through hearsay that it is difficult to get the children admitted into schools in the absence of a study permit or that the process of getting the permit is long and expensive. Some parents attributed the failure of their respective native government, Zimbabwe, to issue out passports to enable them to process the study permits.

The parents reported that the study permit is a prerequisite for admission of children into schools without which it is impossible to get their children admitted into government schools. Different parents have put in varying efforts to try and get the necessary documents or to get their children into schools. Not all parents had been to government schools nor to the offices of the department of education to try and get their children admitted into schools. Some parents relied on hearsay about the difficulties of getting their children admitted into schools. All parents who were interviewed were ignorant of the three months provisional acceptance that the department of education officials reported about. Only one out of the four parents had been to the schools in person, and in vain, to try and get their child admitted into school. What the parents reported was in line with the requirements of the GDE online application guidelines that stipulated that upon receipt of a successful application, parents had to submit the following documents: parent or legal guardian ID, learner's birth certificate, proof of home or work address, and clinic/immunisation card. No alternatives were articulated to cater for parents who did not have these documents, hence, the exclusion from school started from the online application. This resonates with the social model of inclusive education that claims that societal barriers are exclusionary, and in this situation the legislation barriers were apparent. It is also evident that citizenship is the primary mechanism to access certain resources and services, so immigrants are left marginalised because immigrants are theoretically entitled to rights and social protection and the status of or threat of being classified as 'illegal' in practice revokes significant human rights (Mosselson, 2010).

## 6.9 Conclusion

This study sought to investigate the plight of children without legal documents in relation to inclusive education in South Africa using a case study of a non-governmental organisation named Cosmo Oasis. The findings revealed that the children were happy to be at Cosmo Oasis learning centre and they were happy in the community as well. Data from the children, their parents and the Cosmo Oasis personnel showed that the children did not really understand the implications of the missing documents. The children were happy to be at Cosmo Oasis and they seemed to have enjoyed their experiences at the independent schools and at Cosmo Oasis learning centre. The children were fine as long as they were enjoying some form of education. Findings from the children also indicated that the children blended well in the Cosmo community as they played and engaged well with their peers in the community. Findings from the parents revealed that most parents were not aware of children's right to education and the GDE online application system. Some parents had not made an effort to get documents for their children nor tried to get their children admitted in schools and they had concluded that the South African education system is exclusionary to children without legal documents. These parents were forced to resort to unregistered independent schools that offer expensive poor-quality education. Some parents resorted to faking identification documents or separate from their children as they sent them back home to Zimbabwe. Parents resorted to these alternatives because hopeless and desperate and did not know what to do next. Most of the parents lacked the confidence to take action or to acknowledge that the process of getting the documents was long and does not always deliver what it should. The GDE participants viewed the South African education system as inclusive to all, including children without legal documents and put the blame on parents for not doing enough to get identification documents for the children or get information that would see their children admitted into schools. The Cosmo Oasis personnel viewed the education system as partially inclusive as some of the children without documents were at their centre, however, some children from their centre ended up getting access into public schools after engagements with social workers.

# CHAPTER 7: DATA ANALYSIS

## 7.1 Introduction

This chapter constitutes the analysis of the findings in the context of inclusive education. Findings of this study were compared against the literature review, where possible, to ascertain the extent to which the South African education system is inclusive to all children including children without documentation. In this chapter I will be looking at the impact of the absence of legal identification documents, citizenship rights and problems with the social contract, political statements that lack implementation made by the GDE officials, exclusion and lack of participation by children without legal identification documents, and finally, the importance of a human rights based approach to the problem that was under investigation in this study. Before doing the above, I will provide a short summary on how the research question and sub-questions were answered by the analysis of the findings of this study and then summarise the major findings under the social, economic and political themes that emerged.

This study sought to investigate the plight of children without legal documentation using a case study of Cosmo Oasis in Johannesburg, South Africa. The main question was:

To what extent do children without legal documentation enjoy their right to education in light of inclusive education in South Africa?

### 7.1.1. Limited enjoyment of the right to education

The analysis of the findings showed that children without legal documents enjoy their right to education to a lesser extent. This is because children without documentation do not have access to formal public schools on the basis of the missing documents. Systematic contradictions, inconsistencies and complications regarding the inclusion of children without documentation into schools causes confusion around the admission of children without documentation. On one side are the High Court's verdicts that have ruled in favour of all children accessing education regardless of their documentation status and the Department of Basic Education (2018) and its instruments that allow provisional acceptance to children without documentation affording parents and guardians time to put legal identification documents in place, yet, on the other hand, are schools that are not accepting these children on the basis of fear of accountability toHome Affairs for allowing children without documentation into schools. The Department of Home Affairs (2002) is very clear in its stance that schools allowing illegal foreigners, implyingthe children without documentation, will be accountable for admitting the children into schools,

hence the reluctance by school managers to allow children without legal documents into schools.

Court cases regarding access into school are a clear indication of an exclusive education system or an indication of conflict between one or more parties involved in education. Furthermore, the existence and expansion of programmes at Cosmo Oasis to accommodate children without documents acknowledged the exclusionary practices on the basis of missing identification documents of the education system in South Africa. As highlighted earlier, at its inception, the Cosmo Oasis centre was aimed at empowering the youths to identify their skills through the "Bridge the gap" programme, however seeing a need in the community the centre expanded to accommodate children without legal documentation through the "Baby Bridge the Gap" programme as children who were out of school were on the rise, attesting to children without documents being excluded from schools. This was in consensus with Keynan (2017) who noted that immigrants are deeply affected by exclusionary practices. Education ought to be enjoyable and a matter of easy access, not via the courts, hence the conclusion that children without legal documents enjoy their right to education to a limited extent.

### 7.1.2. Inclusivity of the education system in South Africa

The first sub-question was, is South African inclusive education system really inclusive to all children?

The South African inclusive education is not inclusive to all children is the most direct answer. This answer is arrived at by taking into consideration the fact that children without documentation are left out of the South African education system and also the varying views regarding the extent of inclusion that came up from the participants in this study. Children did not really understand inclusion or exclusion. They were happy at Cosmo Oasis to the extent of associating themselves with a particular grade, when in actual fact Cosmo Oasis centre did not have a grading system. This shows how the children had developed a sense of belonging and identified the Cosmo Oasis centre as a formal school. However, the parents felt that the education system was not inclusive to all children because their children were out of public or formal schools where they wanted them to be. Missing legal identification documents hindered the children from being admitted into public schools. Parents who had initially taken their children to unregistered informal schools where the education was poor later resorted to moving their children to Cosmo Oasis with the hope of getting help to get into formal schools. The Cosmo Oasis official perspective was that inclusion in South Africa is partially successful

because despite most children failing to get access into schools, there were a few cases where some learners were admitted into public schools without legal documents. However, it is important to note that such admission was based on the children's intelligence or with the involvement of social workers which was not the usual route for school admission followed by all children. The GDE officials viewed the South African education system as inclusive as it accommodated all children including children without documentation, but this stance is debatable as shall be discussed later in this chapter.

After analysing these conflicting statements, I came to the conclusion that the South African education system was not inclusive to all children. This was mainly informed by the mere existence of Cosmo Oasis centre and the number of court cases as a result of failure to access schools. Furthermore, the Cosmo Oasis official stated how over the years, the centre also provided services to South Africans who were undocumented. Therefore, the educational system was not merely exclusive to immigrants without legal documentation, but also excluded South African children who had no legal identification documents. This is supported by Rinquest (2017) mentioned in the earlier chapters who outlined that South African citizens are denied their right to education in their own country. Sinothando, a 30 year–old South African-born in a remote village of Eastern Cape, could not register her daughter for school because the mother had no proof of identification.

### 7.1.3 Implications of exclusion

The second sub-question was what is the implication of South Africa's laws and practices with respect to children's legal documentation and right to education?

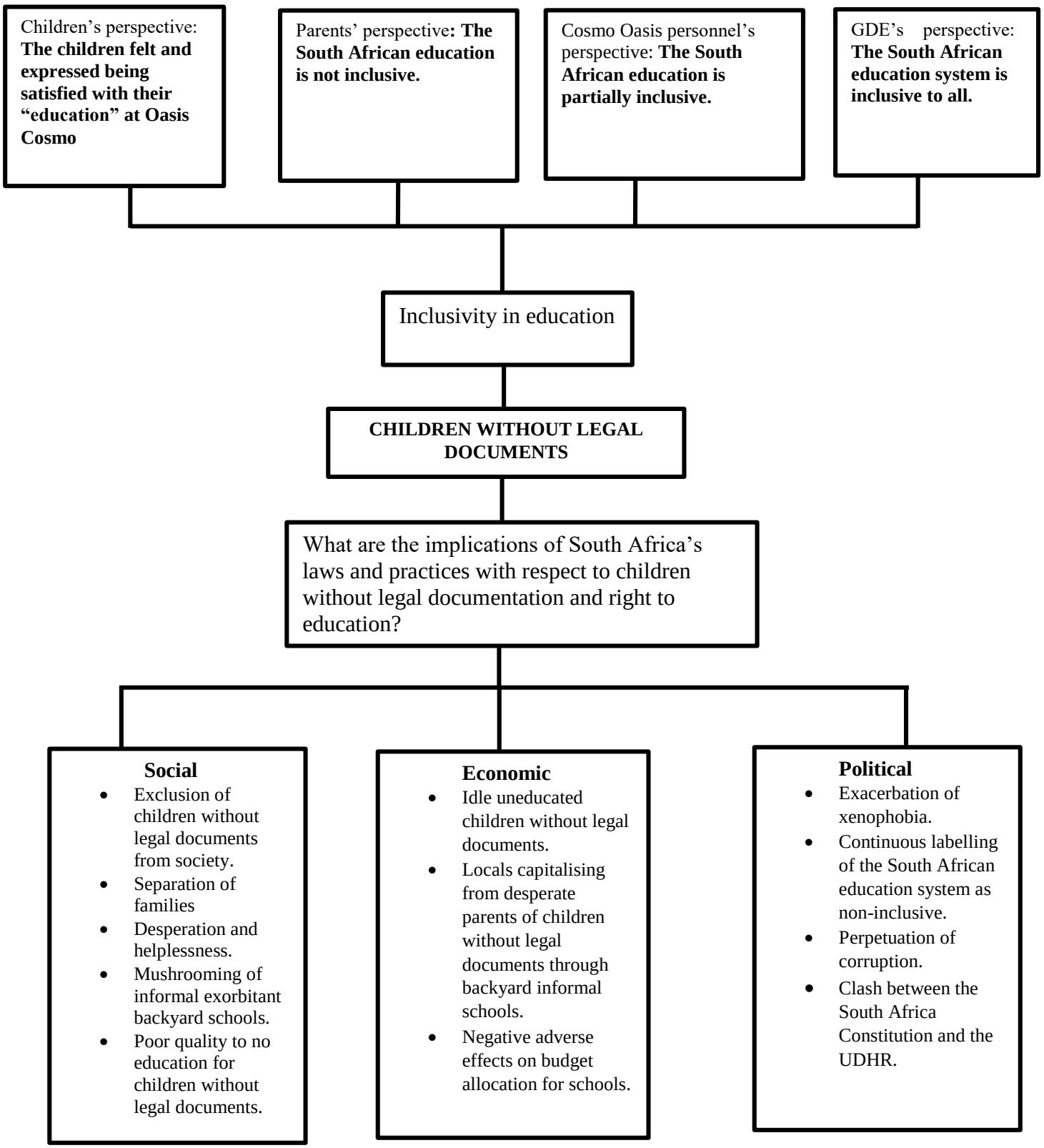
The right to education of children without legal identification documents is violated. This is because these children are excluded from formal or public schools, and this has a negative socio-economic impact on their lives as children and in the long-run. Exclusion of children without documentation was evident by the children without documents in this study being stationed at Cosmo Oasis, a learning centre that accommodated children without identification documents whilst their parents were in the process of acquiring legal identification documents. Additionally, exclusion from formal public schools meant that the children without legal identification documents were constantly moving schools between the unregistered private schools with poor quality education and thus these children were at risk of never being able to achieve meaningful education and consequently prone to lead a poor quality of adult life quality due to minimal education.

Furthermore, these children without documentation stationed at Cosmo Oasis could not continue forever at Cosmo Oasis. There was going to come a time when they had to leave Cosmo Oasis, either to go back to the unregistered private schools or stay out of school altogether. This in itself was a violation of the universal inalienable entitlements that everyone has in terms of rights and freedoms to foster healthy relationships, furthermore, it was against the UN Convention on the Rights of the Child (1989) (OHCHR, 1996) and the ACRWC (1990), that safeguard and protect the rights of all children. According to the Office of the High Commissioner Human Rights (OHCHR, 1996), education is a social right, it should be therefore enjoyed by all, but in the case of the children who were excluded, the aims of these conventions had been defeated, promotion of social justice violated, and the children disempowered thus negatively impacting their future.

### 7.2 Summaries of findings

Below are findings summaries under the themes social, economic and political headings.

**Figure 7.2.1 Overview of research findings**



### 7.2.2 Social

Missing documents forced some parents to consider separating with their children by sending them back to Zimbabwe to attend boarding schools whilst the parents remained in South Africa for work, such was the case of parent 1. Potential separation of children and parents at an early age is linked to various physical and psychological consequences, including reduced longevity and it denies parents their legal jurisdiction to provide informed consent in healthcare facilities (Stange & Stark 2019, p.92). Separation of families therefore does not only affect the education of children but exacerbates the delay in getting identification documents by the children. Studies by Ackermann (2018) showed that unaccompanied and children separated from their

parents, but living with other guardians, struggle to reach the social workers, and as a result, these children get little to no consideration in terms of legal identification documents, thus worsening their situation in accessing services.

Furthermore, Ackermann (2018) noted that although Section 28(1) (b) of the South African Constitution states that every child has the right to family care or parental care or appropriate alternative care when removed from the family environment, only citizens and recognised refugees and permanent residents are eligible foster parents. This situation makes it difficult for undocumented individuals to be guardians or adoption parents to children without documentation, thus making it difficult for the children without documents to access resources and services including education.

Additionally, the parents of the children without legal documents were equally affected in the form of trauma and mental health due to the fact that their children could not be admitted into schools. There was congruence between what parents in other international countries such as Guatemala went through (Idemudia, Williams & Wyatt 2013; Meloni et al., (2017) and what parents in South Africa in studies by Hlatshwayo and Vally (2014) went through in terms of trauma and mental health regarding the education of their children. Because the parents in my study were helpless and hopeless, they were prone to using unconventional methods to obtain documents. This included faking identification documents to enable admission into public schools thus perpetuating corruption. Furthermore, corruption was not only evident in the faking of documents but also the rise of unregistered schools that were willing to admit children without legal identification documents.

### 7.2.3 Economic

Besides the social problems, there are economic issues experienced by the affected children, their parents and by South Africa as the host country of children without documentation. There was a rise of unregistered backyard schools with unqualified staff and limited school facilities that was an alternative for the children without documentation. These schools provide poor education but the hopeless parents with limited to no alternative ways of educating their children resorted to these schools. This was alluded to by the Cosmo Oasis personnel and the parents of children without documentation in chapter 6. These informal backyard "schools" did not require legal identification documents as long at the parents/guardians could pay the fees then the children were admitted into these informal backyard "schools." The mushrooming of these schools was reiterated by Makaneta (2019), who observed that over twenty schools had been closed by the then Gauteng Education MEC, Panyaza Lesufi, because they were unregistered. However, while some unregistered schools were facing closure, some informal schools were being established elsewhere. The informal unregistered schools charged exorbitant fees that were far beyond the reach of parents of children without legal documents and as discussed earlier, the quality of education at these schools was not commensurate with the amount of fees that parents had to pay. Two parents reported that the "private schools" were charging R500 per month and one parent also mentioned a further R500 that was charged as deposit. This was too much compared to an annual donation of R200 to Cosmo Oasis, if the parents could afford the donation fee. The children received better quality education at Cosmo Oasis compared to the private schools, yet the parents did not pay at Cosmo Oasis but donated if they could.

Further analysis revealed that admitting children without legal documents into public schools has negative effects on the South African government and the budget allocated for schools. The South African government is negatively affected in the sense that the government invests (using tax-payers' money) in educating children without legal documents who are provisionally accepted into the education system and end up going up to matric level using taxpayers' money. However, these children will not be certified at the end of the 12 years and they would have used resources that are not specifically allocated for them but for people whose existence is proven by their legal documentation factoring in the fact that per-pupil expenditure is used to express the national per-pupil average and that "basic education commands a substantial slice of overall government expenditure" (UNICEF, 2017, p.7). The GDE online application expert emphasised the importance of accountability that lies with the Home Affairs when children

without legal documentation use resources that are not specifically and rightfully allocated nor entitled to them with adverse financial implications on the educational budget in general and school budget in particular. The budget process is underpinned by "public participation, equity and accountability" (McLaren, 2017, p.41). The Constitution of South Africa warrants access to education and ensures that basic education is adequately funded by the state. It is the obligation of the government to the people to raise money through tax collection and allocate funds in a way that ensures that the government fulfil its constitutional obligations to the people (McLaren, 2017). Furthermore, the Department of Education is also governed by the Public Finance Management Act, 1999 which regulates financial management in the national and provincial governments to ensure that government resources are managed efficiently and effectively (Department of Basic education, 2016, p.10).

The South African laws and practices negatively affect children without legal documents in the sense that uncertified children are a product of an education system that used government resources that were not meant for these children. Therefore, there is financial investment in children without legal documents and these children will not be certified after the schooling experience, it is a financial loss for the country and a waste of time for the children for they do not have any proof of education for twelve-years' investment in school.

This leads to the rise of idle youths who do not either meaningfully contribute to the economy of their host nor native countries. These children fail to acquire the skills obtained at tertiary institutions because of the absence of educational certification and identity documents. These children would have only accumulated some knowledge that is not backed by a certificate; hence they will have knowledge that is not officially recognised. The unfortunate ones who would have not gotten the chance of a provisional acceptance have a double tragedy because in addition to not having educational certificates, they lack the knowledge due to failure to access education as a result of missing identification documents. Both these groups of children will be idle, roam around the streets, engage in criminal activities or settle for menial jobs that do not require certification thus violating the human rights as a "… continuum of values or capabilities thought to enhance human agency" as stated by Weston (2002). For children without legal documents, this cycle is likely to be repeated for the generations to come with resultantly negative effects on "the South African economy that relies heavily on the availability of human capital and the education sector is looked upon as the centre from which skills should be attained in key subjects that drive the development of a healthy economy" (Department of Basic Education, 2016, p.27). Such a scenario could be addressed or resolved

if all children, including children of immigrants without legal identification documents got an education as noted by Brown (2016. P.48) who asserted that "well managed migration has been recognised as playing a decidedly positive role in economic development." This assertion is difficult to realise as long as the children without legal documents do not get access to education. This was in consensus with the analysis of children responses. Learner 3 in Chapter 6 outlined that the effects of not receiving an education could lead to idleness and lack of knowledge. Ignorant and delinquent youths do not contribute to the economy of the society. In a newspaper report stated earlier, Sonia's child who could not access school, mentioned earlier in this chapter is reported to have developed a habit of playing in the dumpsite because he had nothing to do. The comment by learner 3 discussed above resonates with the GDE online application expert who explained that children who continue with school till the end of the twelve years are not certified and thus they do not have anything to show for their twelve years at school and it is difficult to successfully penetrate the economic system without a matric certificate.

### 7.2.4 Political

The political effects that emanated from the analysis of the findings of the study included exacerbation of xenophobia, continuous labelling of the South African education system by some as non-inclusive, perpetuation of corruption and a clash between the South Africa Constitution and the UDHR.

Generally, the community of Cosmo was deemed not xenophobic and thus defying the definition of xenophobia by the South African Human Rights Commission (2000, p.12) as the "irrational fear and deep dislike of non-nationals." Although the Cosmo community was not labelled as xenophobic because the general community that had started informal schools benefited and economically enjoyed from the presence of immigrant parents with children without legal documents who attended school and rented backyard rooms, there were xenophobic traits that came from the least expected institutions - organisations that Cosmo Oasis expected help from. The Cosmo Oasis personnel explained how Cosmo Oasis as an organisation was being denied help by churches on the basis that Cosmo Oasis was assisting foreigners. Churches, institutions that are generally expected to be welcoming to all regardless of ethnicity and background showed xenophobic connotations although in a subtle way. The churches responses showed that they were willing to help Cosmo Oasis if they did not have foreigners in their institution. The parents did not report cases of xenophobia although research shows that many incidents of xenophobia are not reported or receive no attention. Responses

to questionnaires in a study by Chimbga and Meire (2014), showed some strong sentiments from South African citizens that foreigners should not be given the same rights as citizens as they might end up not going back to their countries or end up dominating in South Africa (Chimbga & Meire (2014, p.1698). Likewise, the churches that helped Cosmo Oasis could not render help to Cosmo Oasis because Cosmo was assisting foreigners. Considering that data for this study was collected in 2019, it is not known if the general attitude of the Cosmo community changed with the new spate of xenophobia, Dudula, that surfaced in 2021 (Fihlani, 2022).

In a nutshell, the findings showed the community of Cosmo was not xenophobic and that did not agree with the idea by Reitzes and Bam (2002), that social and economic integration of immigrants in the communities spark debates around "illegal" immigrants based on the claim that immigrants negatively affected the South African economy and society by consuming resources entitled to South Africans. On the contrary, the general community was benefiting from the presence of foreigners and lived in harmony with the foreigners. Additionally, the status quo in the Cosmo community was incongruent with Mattes, Crush and Richmond (2000), who noted that immigrants and migrants are stereotyped as threats to the economic and social interest of South Africans yet the immigrants and migrants remain optimistic about personal prospects in South Africa. Despite the labelling of Cosmo as not xenophobic, analysis of the findings revealed that the failure to include children in the education sector on the basis of missing documents intensified and promoted corruption.

The South African laws and practices with respect to the education of children without legal documentation has tremendously exacerbated corruption in different areas that range from mushrooming of informal schools, illegal entry into South Africa, to faking of legal documents by parents of children without legal documents. As highlighted in the sections above, numerous informal and unregistered schools emerged in Cosmo Oasis as some of the local people took advantage of the desperate situations of their victims. Corruption is perpetuated when parents plan to take counterfeit documents all because they want their children to gain access into schools. This practice was being resorted to by some parents as reported in an article by Chiguvare (2018) in Ground Up that Zimbabwean families were caught between the departments of Home Affairs and Education and were resorting to buying fake documents in order to register their children at schools in South Africa. A fake document in Cape Town in Retreat area was going for about R300. Some parents in my study articulated the extent to which they were willing to go to, to ensure that their children gained access into schools. Some

parents were considering resorting to faking identification documents and the practices were reportedly taking place during applications for green bar-coded identity documents (Department of Home Affairs, 2015). Alternatively, the parents resorted to taking their children to unregistered schools which were on the brink of closure. Over twenty schools had been closed by the Gauteng Education MEC, Panyaza Lesufi, because they were unregistered (Makanaka, 2019). Whilst some informal schools were facing closure, others were being established.

In addition, from the above discussion there are four major take away points from the analysis as discussed below.

### 7.3 Documentation, citizenship rights and the social contract

Firstly, the analysis of the findings revealed that documentation was a prerequisite for children to be admitted into public schools despite the conflicting statements and statutes at systematic levels. The documentation that was required for school registration in public schools included a permit, birth certificate and passport. Despite the claim that the South African education system is inclusive, children without documentation are denied citizenship rights, specifically access to education in line with the thrust of this study. The analysis of the findings revealed different perspectives with regards to the inclusivity of children without legal documents that ranged from inclusive (GDE officials), partially inclusive (Cosmo Oasis personnel) to not inclusive (parents).

Exclusion from formal public schools of children without legal identification documentation was a result of various factors that range from political statements at structural levels without implementation and the contestations of power relations at structural level. The contestation regarding the admission of such children between systems spans from policy-makers, the Home Affairs Department, and senior staff at national, district and school level. These contestations are characterised by conflicting legislative and stringent requirements at different levels of systems operations. The Eastern Cape High Court's verdict of 2019 was in favour of children without documents attending public schools (Chabalala, 2019). Regulation 6 of The Regulations on Admission of Learners to Public Schools (2012) allows provisional acceptance of children without legal identification documents, SASA makes it compulsory for every child to attend school from age seven until the learner reaches 15 years, or the 9th grade whichever comes first. The National Policy around admission of learners into schools asks the school principals to assist with document acquisition if not available, yet on the other hand, Section

39 (1) of the Immigration Act renders instruction by a learning institution to an "illegal foreigner" an offence for which the school and the principal may incur criminal liability (Ackermann, 2018). Furthermore, GDE online application guidelines stipulated that upon receipt of a successful application, the parents need to submit parent or legal guardian ID, learner's birth certificate among other documents to process and finalise the application (Citizen Reporter, 2018). In a similar study, Meloni et al. (2017) focused on barriers to education that are experienced by children without legal documentation in the OECD countries. According to the study by Meloni et al. (2017), Canada had policies and regulations around children without documentation and their access to education is comparable to some extent to what transpires in South Africa.

Clearly citizenship rights guarantee the access to resources (Brown, 2016) and the social contract poses a dilemma to the realisation and enjoyment of rights, thus making it difficult for non-citizens to access resources and services. No arrangement overrides the social contract which governs the state, and the state is responsible for their citizens. An issue therefore arises when children without legal documents and their parents claim rights based on the universality of human rights which is in itself debatable and utopian (Montero, 2017). The emancipation of children without documentation can be realised when the social contract is changed, however, no country is prepared to change their social contracts to accommodate the children without documentation, and hence there remains an impasse between the realisation of rights, altering of social contracts and the admittance of children without legal documentation.

### 7.4 Political statements without implementation

Secondly, the general labelling of the South African education system is arrived upon as a result of the inconsistency between what the GDE officials claimed and what actually happenedon the ground. The GDE officials claimed that the South Africa education system is inclusiveto all, including children without legal documents, yet Cosmo Oasis centre still accommodated children without documentation by 2019 thus nullifying the claims by the GDE officials and rendering these claims mere rhetoric. Furthermore, there were still ongoing court cases around children without documentation in 2019. The latest example in this study was the 2021 petition of Karolyn Mujinga who faced a predicament in enrolling for university due to missing identification documents. The inconsistencies were therefore political statements without implementation because there was still evidence of children left out of the public education system.

The expert on GDE online application, stated that if parents wanted information or help, they could visit the offices for information. Although this comment resonated with article 9 under 'Admission to public schools' in the South African Schools Act 84 of 1996 which states that "Any learner or parent of a learner who has been refused admission to a public school may appeal against the decision to the Member of the Executive Council," this was a political statement that was not being implemented on the ground. Analysis of evidence showed that there was no political will, evident by the lack of coordination between GDE and government officials, and no practical training of principals and teachers when dealing with children without documentation.

Findings from the parents revealed that some of the parents were helpless and hopeless due to lack of awareness of the route to take to get their children admitted into schools coupled with a fear of procrastination to look for information that could help them get their children admitted into schools. This provides evidence that some of the parents in this study were not knowledgeable of the procedure to take as claimed by the GDE official, and therefore it was unlikely that they would act with regards to the children's legal documentation, nor put effort to try and get their children into school.

Further analysis revealed that the GDE officials blamed the parents of being lazy to follow up on identification documents for the children. One GDE official foregrounded the primary caregiver as being responsible for ensuring that children had identification documents. She reiterated that if parents want information they have to go and get information and this was different from what some of the parents were doing, she argued that parents depended upon what they heard from others. In the case of immigrants without permits, the GDE online application expert claimed that these children can successfully apply for online application using their birth date and add some zeros to the date of birth to give sufficient digits required for an ID number. However, findings from the parents revealed that most parents were unaware of this alternative to ID documents. Furthermore, findings from the questionnaires and semi structured interviews showed that most parents were not aware of regulations that protect children's rights nor the Gauteng online application system.

Similarly, in Canada, under the Quebec law, access to public schools for all minors is a right and a requirement, and free education is only enjoyed by legal residents. There are different categories and classification of groups of people such as Canadian citizens, asylum seekers and foreign workers, however the group of "undocumented children" is not mentioned by the law,

according to Meloni et al. (2017). The same applies in South Africa where children without documents are not fully catered for beyond political statements that look brilliant on paper but lack implementation to ensure that children without documentation have access to schools.

### 7.5 Exclusion and lack of participation by children without documentation

Thirdly, children without documentation are excluded from accessing education and from realising their full potential by lack of participation in formal public schools as shall be discussed in this section. All the parents who were interviewed had their children at Cosmo Oasis because they had failed to gain access into formal public schools. Although the Cosmo Oasis personnel highlighted that some children would get admitted into schools after getting help from the social workers, not every child could get help through this means. The GDE personnel clearly indicated that even though the children without legal documents are provisionally accepted for three months, these children were not expelled at the end of the three months' grace period. The children would continue with school but would not receive a certificate at the end of the twelve years which was tantamount to social exclusion as these children will not be able to fully participate in society without certification. This is supported by Muddiman (2000) who asserted that social exclusion is not limited to lack of material resources but it is also linked to inadequate social participation, inadequate access to services and lack of power in society. The excluded children are rendered powerless because there is little they can do to help their situation.

Findings from the Cosmo Oasis Personnel revealed that there was partial inclusion since one of the children from the centre eventually got admitted into school even without identification documents. On the other hand, parents expressed that the education the system was not inclusive as the children without legal documents failed to gain access into the public schools, hence, they were at Cosmo Oasis. These children had been to the unregistered informal schools or were planning to go back to the informal unregistered schools as they could not be at Cosmo Oasis forever. These findings resonate with Hjerm (2001) who posited that the education system of a country may contribute to the creation and maintenance of a division between "us" and "them." This study shows that there is no consensus on how the South African education system is viewed as far as inclusive education is concerned. Failure to accommodate all children into the education system contributes towards derailing the achievement of Sustainable Development Goal 4 which explicitly aims to "ensure inclusive and equitable

quality education and promote lifelong learning opportunities for all" (Global Education Monitoring team, 2020).

Children without legal documentation are included in the educational system in theoretical terms. Although these children are being educated at Cosmo Oasis, and are getting some form of basic skills, or some form of schooling in informal spaces, they do not get into the mainstream school. Their participation is curtailed at a socio-economic and political level. Hence these children continue being portrayed as outsiders with no access to social services and they end up with no or limited skills to participate in the economic, social and political arena. This stereotype perpetuates what Mattes, Crush and Richmond (2000) observed, namely that immigrants and migrants are stereotyped as threats to the economic and social interest of South Africans. In addition, this not only violates the children's rights as suggested by the Convention of the Rights of the Child which treats children as "individuals with dignity who have all the rights of an adult human being, rights that should not be limited to some children but to all children" (Nieuwenhuis, 2007, p.33) and the second generation that constitutes social, economic and cultural rights of individuals (Leib, 2011).

### 7.6 The importance of the human rights approach

Finally, the findings emphasised the importance of a human rights based approach adopted for this study. This approach was adopted because of its emphasis on human rights forming the fundamentals of education and emphasising society, rights and equality as well as integration and empowerment. Despite the social model emanating from disability studies, the model has traits applicable to the rights of undocumented children as well. The social model was useful in implicitly analysing how society creates barriers to the realisation of education and full participation by children without legal identification documents. Other versions in the social model approach also implicitly speak to the issues raised in this study. The emancipatory approach strives to emancipate all children to live freely and equally participate in society with no limitations. For such freedoms to be realised there ought to be transformation at systemic level of the relevant departments, namely, the Home Affairs Department, school policies, school principals and teachers at large. However, such transformation is possible if the social order is reordered, but no country is prepared to alter their social contracts because the government is put into place by the citizens of a country and in turn, the government should protect the citizens. The school reform and improvement approach advocates for a

discontinuation of segregation by treating people the same and incorporating a shift of a range of things that deter schools from marginalising other people.

The findings showed that the cultural and political norms had failed to integrate the children without legal documents when inclusive education supports integration of all people into the education system. Slee (2011, p.107) stated that "Integration requires the objects of policy to forget their former status as outsiders and fit comfortably into what remains deeply hostile institutional arrangements." The presence of children without legal documentation at Cosmo Oasis and many other newspaper reports were revelations that integration of all people was failing and exposed the unequal power relations between systems and the marginalised people. Nevertheless, states are governed by a social contract and that makes them responsible for their citizens and no government is prepared to change its social contract to meet everyone's needs at the expense of inclusivity. Besides, the inclusive ideologies are there to make life more meaningful, enjoyable and equal, yet they do not necessarily have power to override the social contracts of countries. If social contracts keep excluding then that creates an impasse situation that will continue for a long time, and meaningful inclusion will remain a utopian phenomenon.

The issues raised in this study showed that there is no explicit mention of rights for children without legal documentation and the argument could be that rights were developed in the western countries thus making it difficult to contextualise rights in an African set-up. The development of human rights need to be explicitly not taken for granted because the criticism levied against the universality of rights revolves around the human rights origins. Human rights are regarded as having emanated from Western origin and characterised by cultural imperialism (Leib, 2011). In addition, as noted earlier in Chapter 3, rights are viewed as a political tool that with emphasise the individual and that may not be applicable across cultures in Africa and other parts of the world (Carrim, 2006; Lower, 2013).

### 7.7 Conclusion

This study investigated the plight of children without legal documents in relation to inclusive education in South Africa using a case of a non-governmental organisation named Cosmo Oasis. This organisation helps parents and children without legal documentation with basic literacy and numeracy skills in the interim as parents try to get legal identification documents for their children. The study was informed by the contradiction between the South African Constitution and the social contract on one side and the UDHR on the other side. The analysis of the findings showed that the South African education system was not inclusive and leads to

lack of participation by children without legal documents because these children are not integrated into the mainstream, leading to varied socio-economic and political implications on the children without documents, their parents and on the South African education system. Contestations between policies, the legal aspect, the Home Affairs Department, and schools informed by values and attitudes held by stakeholders, were discussed and revealed the contestation between citizenship rights and problems with the social contract which continues to create an impasse between the realisation of rights by non-citizens and the rigidness of the social contract. It was also noted that there was lack of correlation between the GDE and government departments thus illuminating their lack of support for children without legal documents. This in turn renders inclusion a utopian concept due to lack of implementation.

# CHAPTER 8: CONCLUSIONS AND RECOMMENDATIONS

## 8.1 Introduction

This chapter proposes conclusions and recommendations based on the research findings. All stakeholders who work with or care for children, as well as policymakers in general, receive recommendations. Furthermore, I believe that more research is needed in the areas of inclusive education and human rights. I begin by giving a road map of how this study was conducted.

This thesis focused on children without documentation in relation to inclusive education, human rights and citizenship rights with a specific focus on the right to education using a case study of Cosmo Oasis. This study was mostly informed by the contestation and confluence of inclusive education, the Universal Declaration of Human Rights (UDHR) (United Nations General Assembly, 1948a) and the Constitution of the Republic of South Africa (1996).

The main motivation of this study was the denial of education or difficulties in accessing education by children without legal documentation in South Africa. It was worth undertaking this study because I am concerned about the plight of children without documentation who are left out of formal public schooling due to lack of legal identification documents when the Convention of the Rights of the Child treats children as "individuals with dignity who have all the rights of an adult human being, rights that should not be limited to some children but to all children" (Nieuwenhuis, 2007).

Chapter 1 served as the study's introduction, offering background information. In this chapter, I explained why it was necessary to perform this study, including the study's objectives and justification. Delineating the primary research questions and sub-questions helped to outline the study's objectives.

Chapter 2 constituted part of the literature review, specifically the conceptual framework. In this chapter I discussed that undocumented children have a right to education based on human rights and that their inclusion and access to schooling is a matter for inclusive education. I also outlined the human rights-based approach to inclusive education. I further discussed the legal and policy provisions regarding children's rights to education, including those of undocumented children in inclusive education.

In Chapter 3 I discussed children's rights, human rights and inclusive education. I further argued that education falls under the human rights discourse because education is in itself a

human right. I also outlined the intricacies surrounding the origins and debates around the universality and enjoyment of human rights specifically by children without documentation.

Chapter 4 covered the theoretical framework of my study. I used the human rights approach to inclusive education within the social model approach. I outlined the five approaches to inclusive education by Oliver and Barnes (2010) and the nine models of disability by Retief and Letsosa (2018) and I came up with an inclusive education framework for this study that is based on a human rights approach to inclusive education within the social model paradigm.

In chapter 5 I described the research design used in this study, which was a qualitative mixed method with an emphasis on human experience and feelings. This study was a case study of Cosmo Oasis, a non-governmental organisation located in Cosmo City in Johannesburg, South Africa. The data for the study was gathered through audio-recorded semi-structured interviews and self-administered questionnaires. In this chapter I explained why I chose the site, which was a clear indication of a problem with children's access to education who did not have valid identification documents. I went on to explain the study's participants and why they were chosen, as well as the data collection methods employed, taking into account their strengths and limitations. I further discussed ethical issues upheld in this study that include, privacy, anonymity, confidentiality, informed consent, informal assent and protection from harm.

Chapter 6 presented the research findings. In this chapter I analysed and organized data to create tables that improved data presentation and revealed insights from participants' responses. A professional transcriber transcribed the interview data verbatim. I then used an inductive approach to code the data and divide the emerging bigger themes into manageable divisions.

The seventh chapter examined and analysed the study's findings, relating theories to the findings. I began by discussing how the findings addressed the main topic and its sub-questions. This was followed by a summary of the findings and key takeaways from the examination of the findings. Triangulation is used where appropriate, and conflicts and confluences were highlighted.

Chapter 8 is the final chapter of this thesis. The chapter outlines the roadmap for the study and suggests conclusions and recommendations as informed by the findings of the research. Recommendations are made to all stakeholders who work or take care of children and policy

makers in general. Additionally, I suggest that further research is required in the field of inclusive education and the realisation of human rights.

### 8.2 Limitations of the study

My study was limited in different ways and these mostly came from the design limitations discussed in chapter 5. Additionally, the sample of this study was small, and findings cannot be generalised. However, the aim of this study was not to generalise findings but to describe the experiences of children without legal identification documents. Nevertheless, this study is deemed useful in a small way in understanding the plight of children without legal documents in relation to inclusive education.

### 8.3 Conclusions

The major conclusions are discussed in this section. Legal identification proof is a requirement for children to be accepted to public schools, despite conflicting claims and legislation at the systemic level. Clearly, citizenship rights ensure access to resources and services, and the reverse is equally true. This was proven by the presence of undocumented children who remain excluded from mainstream education. This clarifies how the social contract creates a dilemma regarding the realization and enjoyment of rights by children without legal documents. Citizenship rights ensure access to resources (Brown, 2016), and the social contract creates a difficult situation regarding the realization and enjoyment of rights, making it harder for non-citizens to obtain resources and services. No agreement can override the social contract that rules the state, and the state is responsible to its citizens.

There are problems when children without legal documentation and their parents claim rights based on the universality of human rights, which is in itself controversial and unrealistic, making it harder for non-citizens to obtain resources and services. This was clearly demonstrated when children without documentation and their parents could not firmly claim their human rights and when the GDE officials mentioned identification documents as essential to accessing education. No agreement can overridethe social contract that rules the state, and the state is responsible for its citizens and no states are prepared to change their social contracts. A problem occurs when children without legal documentation and their parents claim rights based on the universality of human rights, whichis in itself controversial and unrealistic. Notwithstanding the criticism and debates on the origins of rights as emanating from Western countries, making it impossible to contextualize rights in an African setting, the realisation and enjoyment of rights by children without documentation is also hampered at local and national

level. The analysis of findings revealed that there is no explicit reference of rights for children without legal documentation ininstruments governing the education of children without documentation. No participant made explicit reference to the rights for children without legal documentation with regards to education. Conflicting regulations between the Regulations on Admission of Learners to Public Schools (2012), SASA, the National Policy around admission of learners into schools, and The NationalPolicy on Admission of Learners to Schools, on one hand, versus Section 39 (1) of the Immigration Act regarding admission of children without documentation, creates an impasse regarding the education of children without documentation. Despite the notion that South African education is inclusive, children without documentation are denied access to education.Therefore, the South African inclusive education system is not inclusive to all children becausechildren without documentation are theoretically included in the educational system. Althoughchildren without documentation are educated at Cosmo Oasis and receive some fundamental basic skills in informal settings, they are not accepted into formal public schools. Their participation is curtailed, and so is their socio-economic and political engagement as adults. These children continue to be portrayed as outsiders with no access to social assistance, leavingthem with no or limited skills to engage in the economic, social, and political arenas.

The general branding of the South African education as inclusive is rhetoric as it lacks implementation and is characterised by political statements that lack the political will but shows lack of coordination and the existence of a contradiction between what GDE officials asserted and what actually occurred on the ground. The GDE officials claimed that the South African education system is inclusive to all, including children without legal documents; however, the Cosmo Oasis centre continued to accommodate children without documentation by 2019, nullifying the GDE officials' claims and rendering them mere rhetoric. Furthermore, there were still court proceedings involving undocumented children in 2019 and lack of implementation of court rulings that were in favour of children without documentation.

The exclusion of children without legal identification documents does not only affect the children and their parents in terms of exclusion from school, helplessness, trauma and mental health, but goes on to affect South Africa in different ways. It perpetuates subtle xenophobia, increases corruption, crime, and mushrooming of informal unregistered schools. Hence the exclusion of children without documentation has socio-economic and political effects on children without documentation, their parents and South Africa as the host country.

The human rights based approach adopted for this study is the foundation of education as it

foregrounds society, rights, and equality, as well as integration and empowerment. Despite its origins in disability studies, the social model and versions of the social model in inclusive education used in this study are applicable to the rights of undocumented children. They implicitly provide an understanding of how society creates hurdles to schooling and full engagement for children who do not have legal identification documents. Other versions of the social model method also make implicit references to the concerns addressed in this study. However, there is no explicit discussion of children without documentation as deserving people with rights, as a result these children are not catered for neither is there is a standard to cater for their needs as people. The of lack of clarity on where these children belong and what rights and privileges they are entitled to makes it difficult for children without documentation to enjoy their rights and freedoms. This also renders education of human rights very crucial.

## 8.4 Recommendations

After discussing different conclusions from this study, I move on to suggest recommendations informed by this study. I make recommendations that could be helpful to policy makers, governments, schools and parents. It is anticipated that these recommendations could in some way contribute to the vast knowledge about inclusive education and missing identification documents.

### 8.4.1 Improved implementation of inclusive education

The first recommendation that I make is that the implementation of inclusive education is being compromised by failing to ensure that all children, regardless of their defining characteristics, such as missing legal identification documents, are able to access and participate fully in education. Children without legal identification documents are being left out of the education system when the only home and countrythey have known is South Africa. There is need to identify threats to inclusive education, in terms of exclusive values, cultures and systems that contribute to exclusion, and address them.All stakeholders could benefit from collaboration by coming together, re-evaluating the systems that have been put in place, and identifying contradictions in the instruments and language that can contribute to exclusionary practices used at different levels. This collaboration could be between school principals, the Department of Education, the Department of Home Affairs and embassies of involved countries. It could be helpful if this is treated as a matter of urgency because so many children's futures are at stakeby failing to meaningfully participate in education.

It could be beneficial to identify the shortcomings of different paradigms of inclusive

education, find solutions and blend the solutions so as to come up with a more pragmatic and eclectic paradigm that is practical to a range of situations in a world that has been reduced to a global village. Such an approach could address the challenges that are present within the current individual approaches. Improved implementation could also be achieved by having the same voice across a network of departments to including, Home Affairs, courts, policy makers, school admission instruments and schools so that there are no contradictions in language and interpretation among systematic bodies. This could also necessitate consistency and avoid conflicting measures and statements regarding the inclusion of children without legal identification documents.

### 8.4.2 Issuance of legal identification

Concerning the issues of legal identity, numerous stakeholders including parents, host countries, native countries, embassies and significant stakeholders in education, are all responsible in ensuring that all children have legal documents. Parents could ensure that they acquire the relevant documents required for school registration from the relevant authorities rather than depend on hearsay from informal sources or do nothing about the issue at hand and blame the systems as was the case with some parents in my study. Host countries and native countries could collaborate on how to timeously deal with the acquisition of legal identification and alternative ways of accessing basic fundamental services such as education. This entails facilitation of timeous acquisition of legal identity documents through efficient systemsbecause legal identity documents are indispensable in accessing basic services, specifically education. Increased awareness in the importance of legal identification documents and accessto resources and services through civil groups and other forms of campaigns in the communities. Acceptable alternative forms of identification could be promoted to facilitate children's access into education so that children could attend schools in the interim whilst theirparents work on the required documents.

### 8.4.3 Violation and monitoring of rights

Violation of the human rights leads to the violation of other rights and in the context of this study, violation of the right to identity led to the violation of the right to education. The violation of the right to education has been on the rise. This has long lasting effects on the lives of the affected children, their families and societies at large. This could be abated by treating the issues of violation of rights as a very serious matter with punitive consequences. The issue of accountability should be taken more seriously at school, education department level and at

governmental level. For example, consequences should be implemented to respective individuals and structures for violating court rulings as was case with in some reported cases in this study. Going against court verdicts belittles the courts, brings the courts' integrity into disrepute and sets a precedent on similar cases. Accountability could be improved through reporting and monitoring of inclusion and exclusion of children and identifying threats and opportunities to improve on needy areas. Still on the issues of accountability, there should be severe punitive measures for the perpetrators of corruption for the forging of identification documents, fraud and operating unregistered schools to discourage such behaviour.

### 8.4.4 Comparative studies

Doing comparatives studies on similar issues in different contexts is a necessity. This could help to learn from the experiences of other countries with a more a less similar situation of the exclusion of children without legal documents. It helps inform what works and what does not work. This could be to identify the current trends and patterns in inclusive education and children without legal documentation, and facilitate the development of new explanations and theories that could help address inclusive education issues.

### 8.4.5 Future research

My study was based on a case study and as such, findings from this study cannot be generalised. Nevertheless, my findings could be used to conduct future large-scale research that could then be generalised to a bigger population. Further research could be done to investigate the same issue using different inclusive approaches such as Ubuntu/humanity or using different research designs to compare reliability and validity of my study and contribute to the broader and growing knowledge around inclusive education, thus bringing meaningful awareness to the relevant stakeholders.

## 8.5 Conclusion

The 21$^{st}$ century has witnessed migration at unprecedented levels, either legally or illegally. The increase in migration has proportionally led to the increase of children without legal identification documents. In most cases, these children are excluded from education at various levels. Despite being given a voice, these children may fail to articulate their exclusion because they are young and require protection from adult figures, policies and society at large through advocacy work and research. This research used a human rights approach to inclusive education within the social model paradigm and its versions. The human rights approach was

used because it forms the fundamental basis of inclusive education. Cosmo Oasis, a centre that has broadened its aims and programmes to include children without legal identification documents, was a clear indication that the problem of exclusion of children without legal documents exists, was used for this study. The study was qualitative research that made use of mixed methods. Children without legal identification documents, their parents and GDE officials in the departments of inclusive education and the GDE online application system, were participants in this study. The major finding was that the South African education system is largely exclusive to children without legal identification documents, with some very limited anecdotal evidence of inclusion. Furthermore, socio-political and economic effects associated with the exclusion of children without legal documents were revealed by the findings of this study. Recommendations to policy makers, governments, parents of children without legal documents were made. The major recommendation is that there is a need to take responsibility and to shift systems, structures, values and attitudes that are exclusionary if we are to move towards inclusive practices that uphold the rights of all children. This research is not necessarily going to change the status quo but it is hoped that it will make that small contribution to the growing body of knowledge regarding inclusive education and inspire further research on a large scale.

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## APPENDIX A: CHILD INTERVIEW SCHEDULE

Title: **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.**

1. Who do you stay with?
2. For how long have you been in South Africa?
3. Which document or documents do you not have?
4. What are your feelings about not having a legal document?
5. What are your experiences like at school with regards to absence of identification documents?
6. Is something being done to help you get identification documents? Explain.
7. Do you know any children's rights? If so please explain any children rights that you know.

Thank you

**APPENDIX B: PARENTS INTERVIEW SCHEDULE**

Title: **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.**

1. Which document(s) does your child not have?

2. May you please explain the reason(s) behind the missing documents?

3. How did you get to know of Cosmo Oasis?

4. What are the experiences of your chid/children living without legal identification documentation?

5.How does it feel like for you as a parent to have a child without legal identification document (s)?

6.How do you deal with challenges of the absence of legal identification documents of your child?

7. What do you think can be done to help children without legal documentation?

8. Do you know of any regulation(s) that protect children's rights?

Thank you

## APPENDIX C: COSMO OASIS PRINCIPAL INTERVIEW SCHEDULE

Title: **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.**

1. Briefly describe what Cosmo Oasis is.
2. How did Cosmo Oasis begin?
3. How would you describe the experiences of children without legal documentation?
4. Explain in detail how you help these children?
5. What has been the effect of you helping children without legal documentation?

Thank you

## APPENDIX D: GDE OFFICIAL INTERVIEW SCHEDULE

Title**: Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.**

Dear respondent

I am a PhD Student with Wits University doing a research entitled **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.** This study is worth undertaking because it will focus on the extent of inclusion of all learners in schools. It is anticipated that findings from this study could in a small way make useful and contextual contribution to the growing knowledge around inclusive education, diversity and rights of children to education. Findings from this study could contribute some awareness to policy makers to resolve the problem at hand and probably stimulate further research on the topic hence your contribution is highly valued.

I therefore kindly invite you to participate in a single 30-45minutes audio-recorded semi structured interview and your cooperation is greatly appreciated.

### QUESTIONS

### Section A: Inclusive Education in South Africa

1. How would you rate the effectiveness of South Africa in implementing inclusive education so far?
2. Do you know of any regulations that protect children's right to education? Please explain.
3. To what extent is the children's right to education respected?
4. Who do you think should be responsible for children's right to education?

### Section B: GDE Online application system

5. How would you rate the effectiveness of the online application system as a way of enrolling learners in schools?
6. What have been your experiences with the current online school enrolment system?
7. What identification document or documents are required for one to successfully apply for school admission using the online application system?
8. What happens to children without legal identification documents who want to enroll for school?
9. How do you deal with challenges of children who fail to enroll due to absence of legal identification documents?

Thank you

**APPENDIX E: LEARNERS' QUESTIONNAIRE**

Title: **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.**

Dear learner

I am a student with the University of Witwatersrand. I am doing a research with the title; Inclusive **education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.** It is important that I do this research to find out more about the educational experiences of children without legal documentation. I am kindly asking you to honestly answer questions on this questionnaire. You do not have to write your name so that no one will know that you are the one who completed this questionnaire and no one will be able to know your answers too.

Thank you

**QUESTIONS**

**Section A: Biography**

**Please tick the appropriate box and write information when requested on the spaces provided.**

1. Please indicate your gender.

1 Female ☐ 2 Male ☐

2. How old are you?

1 7-10 years ☐ 2 11-14years ☐

3 15-18 years ☐ 4 18+ years ☐

4. Please indicate your country of origin.

……
……
……
……
……..

5. Which legal identification document are you using?

1 Birth certificate ☐ 2 Asylum ☐

3 Permit ☐ 4 None ☐

6. What level of education have you achieved so far?

1 Grade 1-3 ☐ 2 Grade 4-6 ☐

3 Grade 7-9 ☐ 4 Other ☐

7. Please explain if you indicated **other** in question 6 above.

……
……
……
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……..

**Section B: Children experiences**

8. For how long have you been in South Africa?

1 1 month -5 years ☐ 2. 6-10 years ☐

3 15+ years ☐ 4 Since I was born ☐

9. For how long have you been with Cosmo Oasis?

1 1 month - 6 months ☐ 2 6 -12 months ☐

3 1-2 years ☐ 4 3+ years ☐

10. Do you think Cosmo Oasis will help you with what you need?

1. Yes ☐ 2. No ☐

3. Maybe ☐ 4. I am not sure ☐

Thank you

**APPENDIX F: PARENT QUESTIONNAIRE**

Title: **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.**

Dear parent/guardian

I am a PhD Student with Wits University doing a research entitled **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.** This study is worth undertaking because it will focus on the extent of inclusion of all learners in schools. It is anticipated that findings from this study could in a small way make useful and contextual contribution to the growing knowledge around inclusive education, diversity and rights of children to education. Findings from this study could contribute some awareness to policy makers to resolve the problem at hand and probably stimulate further research on the topic hence your contribution is highly valued.

I therefore kindly ask you to honestly complete the questionnaire and your cooperation is greatly appreciated. You do not have to write your name on this questionnaire to keep your identity anonymous.

Thank you

**QUESTIONS**

**Section A: Biography**

**Please tick the appropriate box and write information when requested on the spaces provided.**

1. Please indicate your gender.

1 Female ☐ 2 Male ☐

2. Please indicate your citizenship.

……
……
……

3. Please indicate your age.

1 18-25years ☐ 2 26 -33years ☐
3 34-41 years ☐ 4 42+ years ☐

4. For how long have you been in South Africa?

1 1 month -5 years ☐ 2 6-10 years ☐

3 15+ years ☐ 4 Since I was born ☐

5. Which legal document are you using?

1 None ☐ 2 Asylum ☐

3 Permit ☐ 4 South African ID ☐

**Section B: Inclusive education in South Africa**

6. Which document(s) does your child/ children or child/ children under your care not have?

1. Birth record ☐ 2 Birth certificate ☐

3 Permit ☐ 4 South African ID ☐

7. Is your child /children or child/children under your care currently at school?

1 Yes ☐ 2 No ☐

8. If you ticked **no** please explain why the child is not at school.

……
……
……
……

9. Do you know of any regulations that protect children's right to education?

1 Yes ☐ 2 No ☐

10. Please explain your response to question 9 above.

……
……
……
……..

**Section C: Gauteng Department of Education (GDE) Online application system**

11. Do you know of the Gauteng online school application system?

1 Yes ☐ 2 No ☐

12. If you answered **yes** in 11 above, how would you rate the effectiveness of the GDE online application system as a way of enrolling learners in schools?

1 Very good ☐ 2 Good ☐ 3 Fair ☐ 4 Poor ☐

13. Please explain your answer to number 12 above.

……
……
……
…….....

Thank you

## APPENDIX G: CHILD INFORMATION SHEET AND INVITATION TO PARTICIPATE IN RESEARCH

Dear learner

My name is Vimbayi Matanhire and I am student in the School of Education at the University of the Witwatersrand.

I am doing research entitled **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.** The reason for doing this research is to find out, understand more and report about human rights, and children without lawful papers that show who they are (legal identification documents) and what this does to their education. These children can be South Africans or children from other countries.

The answers that you give me are very important as they will be used to write reports on inclusive education, our differences and rights of people who come from other countries and people born in South Africa but without lawful papers that show who they are. Your answers could also be used to add on to the knowledge that people who make laws have as they try to solve problems that are faced by people without the required and lawful papers that show who they are. Your answers may also make other people want to find out more information on this topic and there will be more information to understand what is really happening.

I was wondering whether you would mind if I could ask you - with your permission and your parents' or guardians' permission to take part in this research in two ways as follows; (1) By answering questions in only one interview that will be about 30-45 minutes long. I will ask for permission to record your answers whilst I write down your answers if you agree with that. The reason I want to record your answers is to make sure that I have the correct answers of what you say. The interviews will be done at a place and time agreed on by you, myself and your parents or guardian/s. (2) I will also ask you to write down answers on a paper I will giveyou called a questionnaire. It is your choice to answer the some or all the questions I will ask you in an interview or to write down the answers to questions that I will give you. If you choosenot to answer question(s) that you do not want to answer nothing will happen to you. I promisethat, I will not use your real name in anything that I will write using your answers. Instead of using your real name, I will make up another name that I will use in place of your real name all the time I write about your answers. All your answers will be kept safely on a computer thatcan only be opened by me because I use a password that I only know to open the computer where yourinformation will be stored.

You will not be advantaged or disadvantaged in any way by taking part in this research. The interviews will be in English but should you require interpretation, let me know as they will be Miss Hillary Sambo to help with interpretation. Miss Sambo will not share anything from the discussions with anyone except me. Your participation is by choice, so you can decide that you do not want to continue with the research at any time during this research without any negative effects. There are no foreseeable dangers in taking part in this study and there will be no payment for taking part in this study. At least one of the Cosmo Oasis workers will be available as we do the interviews but should you experience disturbed by anything we talk about during the interview and you feel like talking to someone, there will be Mrs Goremusandu on standby to talk to. She is a qualified social worker and she will not share anything that you will discuss with anyone. Should you want to speak to a counsellor, please call Childline South Africa on their toll-free number (you do not need airtime to call this number) on 08000 55 555 on Mondays to Fridays between 2-6 p.m.

Please let me know if you require any further information.

Yours sincerely,

Vimbayi Matanhire

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**APPENDIX H: INFORMAL ASSENT FOR THE CHILD PARTICIPANT**

## Title: Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.

- Do you mind if I talk to you about how it is like being at Cosmo Oasis and about school?
  **YES/NO**
- Please know that you can choose not to answer to any question(s) that you do not want to answer during our discussion.
- You can also choose not to continue with our discussion at any time without anything bad happening to you.
- May I please have permission to record your answers on an electrical gadget to help me get your actual answers so that I write exactly what you say? **YES/NO**
- All your answers will be used for research only.
- Some of your answers be written in some books or articles that will be read by other people.
- I will never use your real name in anything that I will write using your answers so that no one knows that you are the one who gave me the answers. To do that, I will make up a false name that I will use instead of your real name in everything I will right using your answers.
- I will keep our discussion on a computer that needs a password to be opened and I am the only one who has that password, so no one can get your answers except me.
- If you do not understand the question please let me know, there will be someone ready to help us with interpretation and keep the discussion between herself, me and you.
- May I also ask you that you write answers to the questions I will type on a piece of paper (questionnaire) where you do not have to write your name?
  **YES/NO**
- You can choose not to write answers to questions that you do not want to answer with nothing bad happening to you.
- If you feel disturbed or stressed during our discussion let me know there will be someone ready to help who will keep whatever you discuss to herself.
- Should you want to speak to someone else as a result of the disturbance or stress caused by our discussion please call Childline South Africa without using any airtime on 08000 55 555 on Mondays to Fridays between 2-6 p.m.
- If you choose to stop our discussion as a result of stress please let me know if you would like me to check on you via a call or a visit.
- Do you have any questions you would like to ask me about this research?

## APPENDIX I: INFORMATION SHEET AND PARENT INVITATION TO ALLOW THE CHILD TO PARTICIPATE IN RESEARCH

Dear parent

My name is Vimbayi Matanhire and I am student in the School of Education at the University of the Witwatersrand.

I am doing research entitled **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.** The objectives of this study are to explore, investigate and inform the notable tension between human rights, conditions of their realisation and their impact on inclusive education.

Research findings from this study may in a small way make useful and contextual contribution to the growing body of knowledge around inclusive education, diversity and rights of migrants and citizens without legal documentation. Findings from the study could also contribute some awareness to policy makers to resolve the problem at hand and probably stimulate further research on the topic.

I was wondering whether you would mind if I could invite your child - with your consent and your child's informal assent to participate and contribute towards this study by participating in a single 30-45 minutes interview at a suitable agreed time and place by you, myself and your child. With your permission and permission from your child, I would like to request permission to audio-record the interviews so that I have an accurate record of what your child say. I assure you that this is entirely voluntary and that there will be no negative consequences if your child does not choose to be interviewed. If your child agrees to be interviewed, she/he has the right to withdraw from the interview at any time, and your child does not have to answer any questions that she/he does not want to with no negative consequences. I assure you that your child will be completely anonymous, and his/her name will not be made public in any published and written data resulting from the study. Pseudonyms (false names) will be used in place of your child's real name and all research data will be kept securely on a password protected computer.

Your child will not be advantaged or disadvantaged in any way. Participation is voluntary, so your child can withdraw from the study at any time during this project without any penalty. There are no foreseeable risks in your child participating in this study and there will be no payment for participating in this study. The interviews will be conducted in simple English but should your child want help with interpretation, there will be Miss Hillary Sambo on standby to help with interpretation. She is obliged not to talk to anyone about anything from the discussion with your child except me as the researcher.

f your child chooses not to continue with the interview let me know if you would want me to check on your child via a call or a visit.

Please let me know if you require any further information.

Thank you.

Yours sincerely,

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**APPENDIX J: PARENTAL INFORMED CONSENT FORM FOR THE CHILD**

Title: **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.**

***Please circle your choice of answer**

I_____**(participant's full name)** have read and understand the "invitation to participate in the research" for my child **YES/NO**

I indicate my willingness for my child to participate in the research project by:

**i)** Allowing my child's contribution to be audio –recorded for research purposes **YES/NO**

If you answered **YES** above, please indicate your understanding of the following:

- I understand that my child may withdraw her/his participation in an audio recorded interview at any time without any negative consequences. **YES/NO**

**ii)** Being part of one 30-45 minute individual interviews at an agreed time by the researcher, myself and child. **YES/NO**

**iii)** Allowing my child to complete a questionnaire that s/he will be given by the researcher. **YES/NO**

If you answered **YES** for your child to participate in the interview please indicate your consent and understanding of the following:

- I consent to have my child's interview audio- recorded for the purposes of accurate data collection transcription. **YES/NO**
- I understand that my child has the right to decline to answer any of the questions in the interview. **YES/NO**
- I understand that my child may withdraw her/his participation at any time without negative consequences. **YES/NO**

iv) If you answered **YES** to having your child's interview to be audio-recorded for research purposes AND/OR if you answered yes to your child's participation in interviews, please indicate your understanding of the following:

- I understand that my child's participation is voluntary and that there are no negative consequences for choosing not to participate in this research: **YES/NO**
- I understand that my child's responses will be used for research and academic purposes and may be published in journals articles, conferences and books: **YES/NO**
- I understand that my child's responses will be used anonymously at all times he\she will not be identified in any research publications: **YES/NO**
- I understand that all research data will be kept securely on a password protected computer. **YES/ NO**

If you answered **YES** for your child to complete the questionnaire above, please indicate your understanding of the following:

- I consent for my child to complete the questionnaire that s/he will get from the researcher. **YES/NO**

- I understand that my child may withdraw from completing the questionnaire and may choose not to answer questions that s/he does not want to answer with no negative consequences. **YES/NO**

**N.B** If you tick **NO** to any of the above statements then;

(i) that particular action will not be done as part of your contribution to the research

**OR**

(ii) further explanation will be given to you to clarify what that particular statement means and you will still have the choice to select an option of your choice.

Signature_____ Date_____

**APPENDIX K: INFORMATION SHEET AND PARENT INVITATION TO PARTICIPATE IN RESEARCH**

Dear Parent

My name is Vimbayi Matanhire and I am student in the School of Education at the University of the Witwatersrand.

I am doing research entitled **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.** The objectives of this study are to explore, investigate and inform the notable tension between human rights, conditions of their realisation and their impact on inclusive education.

Research findings from this study may in a small way make useful and contextual contribution to the growing body of knowledge around inclusive education, diversity and rights of migrants and citizens without legal documentation. Findings from the study could also contribute some awareness to policy makers to resolve the problem at hand and probably stimulate further research on the topic.

I was wondering whether you would mind if I could invite you to participate and contribute towards this study in two ways. (1) By completing a questionnaire in your own space and then we agree on when I can collect the questionnaire. I will explain to you how to complete the questionnaire. (2) By taking part in a single 30-45 minutes audio-recorded semi-structured interview at an agreed date and time. Audio-recording is for accurate recording of your responses and for transcription. I assure you that participation is entirely voluntary and that there will be no negative consequences if you choose not to complete the questionnaire or not to answer some questions in the interview. I assure you that you will be completely anonymous, and your name will not be made public in any published and written data resulting from the study. Pseudonyms (false names) will be used in place of your real name and all research data will be kept securely on a password protected computer.

You will not be advantaged or disadvantaged in any way. Participation is voluntary, so you can withdraw from the study at any time during this project without any penalty. There are no foreseeable risks in participating in this study and there will be no payment for participating in this study.

Please let me know if you require any further information.

Thank you.

Yours sincerely,

Vimbayi Matanhire

matanhirev@gmail.com

0712806733

Supervisor

Professor Nazir Carrim

Nazir.Carrim@wits.ac.za
0117173025

Human Research Ethics Committee

Shaun Schoeman

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0117171408

**APPENDIX L: PARENT INFORMED CONSENT FORM TO PARTICIPATE IN RESEARCH**

Title: **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.**

***Please circle your choice of answer**

I_____**(participant's full name)** have read and understand the "invitation to participate in the research". **YES/NO**

I indicate my willingness to participate in the research project by:

i) Agreeing to participate in one 30-45-minute individual interviews at an agreed time by the researcher. **YES/NO**

ii) Allowing my contribution to be audio– recorded for research purposes. **YES/NO**

**iii)** Completing a questionnaire that I will personally get from the researcher. **YES/NO**

If you answered **YE**S to participate in interviews, please indicate your consent and understanding of the following:

I understand that I may I withdraw my participation in an audio recorded interview at any time without any negative consequences. **YES/NO**

- I consent to take part in a single 30-45 minutes semi-structured interview. **YES/NO**
- I understand that I have the right to decline to answer any of the questions in the interview. **YES/NO**
- I understand that I may withdraw my participation in the interview at any time without negative consequences. **YES/NO**
- I understand that my participation is voluntary and that there are no negative consequences for choosing not to participate in this research: **YES/NO**

If you answered **YES** to having your contribution audio-recorded for research purposes AND/OR if you answered yes to participate in interviews, please indicate your understanding of the following:

- I consent to have my interview audio-recorded for the purpose of accurate data collection and transcription. **YES/NO**
- I understand that my responses will be used for research and academic purposes and may be published in journals articles, conferences and books. **YES/NO**
- I understand that my responses will be used anonymously at all times and I will not be identified in any research publications: **YES/NO**
- I understand that all research data will be kept securely on a password protected computer. **YES/NO**

If you answered **YES** to completing the questionnaire above please indicate your understanding of the following:

- I consent to complete the questionnaire that I will get from the researcher. **YES/NO**

- I understand that I may withdraw from completing the questionnaire and may choose not to answer questions that I do not want to answer with no negative consequences. **YES/NO**

  **N.B** If you tick **NO** to any of the above statements then;

  (i) that particular action will not be done as part of your contribution to the research

  **OR**

  (ii) further explanation will be given to you to clarify what that particular statement means and you will still have the choice to select an option of your choice.

Signature_____ Date_____

## APPENDIX M: INFORMATION SHEET AND INVITATION TO PARTICIPATE IN RESEARCH FOR COSMO OASIS PRINCIPAL

Dear principal

My name is Vimbayi Matanhire and I am student in the School of Education at the University of the Witwatersrand.

I am doing research entitled **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.** The objectives of this study are to explore, investigate and inform the notable tension between human rights, conditions of their realisation and their impact on inclusive education.

Research findings from this study may in a small way make useful and contextual contribution to the growing body of knowledge around inclusive education, diversity and rights of migrants and citizens without legal documentation. Findings from the study could also contribute some awareness to policy makers to resolve the problem at hand and probably stimulate further research on the topic.

The reason why I have chosen your organisation is because you are working with children without legal identification documents. I was wondering whether you would mind if I could invite the principal, children (with their consent and their parents' or guardians' consent to participate and contribute towards this study) by the following three ways; (1) By inviting the principal to participate in a single 30-45 minutes audio-recorded semi-structured interview at a suitable agreed time and place. Audio-recording of the interview is essential to accurately capture your responses and for transcription. (2) By inviting **four** children with their permission and permission from their parents or guardians to participate in audio–recorded semi-structured interviews. Audio-recording is essential so that I have an accurate record of what participants say and for transcription. (3 By inviting **four** children (with their consent and consent from their parents or guardians) to complete a hand-delivered questionnaire. I assure you that participation is entirely voluntary and that there will be no negative consequences if the principal or children choose not to take part in the study. Those who will agree to beinterviewed will be assured that they can withdraw from the interview or completion of the questionnaire at any time, and that they do not have to answer any questions they do not wantto in the interview or questionnaire, with no negative consequences. I assure you that participants will be completely anonymous in any published and written data resulting from the study. Pseudonyms (false names) will be used in place of the participants' real names and all research data will be kept securely on a password protected computer.

The principal and children will not be advantaged or disadvantaged in any way. Participation is voluntary, so participants can withdraw their permission at any time during this project without any penalty. There are no foreseeable risks in participating in this study and there will be no payment for participating in this study.

The interviews with the children will be conducted in simple English but should the child want help with interpretation, there will be Miss Hillary Sambo on standby to help with interpretation. Miss Sambo is obliged not to talk to anyone about anything from the discussion with the child to anyone except me as the researcher.

To ensure safety of the children I have put the following measures in place; I will kindly request that least one of the Cosmo Oasis workers will be available as we do the interviews but should the child feel disturbed or stressed by anything we talk about during the interview and s/he

feels like talking to someone, there will be Mrs Goremusandu on standby to talk to. She is a qualified social worker and she will not share anything that she will discuss with your child with anyone. Should the child or parent want to speak to a counsellor, they should please call Childline South Africa on their toll-free number on 08000 55 555 on Mondays to Fridays between 2-6 p.m. If the child chooses not to continue with the interview the child and parent will be requested to let me know if they would want me to check on their child via a call or a visit.

Please let me know if you require any further information.

Thank you.

Yours sincerely,

Vimbayi Matanhire

matanhirev@gmail.com

0712806733

Supervisor

Professor Nazir Carrim

Nazir.Carrim@wits.ac.za

0117173025

Human Research Ethics Committee

Shaun Schoeman

Shaun.schoeman@wits.ac.za

0117171408

**APPENDIX N: INFORMED CONSENT FORM FOR COSMO OASIS PRINCIPAL**

Title: **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.**

***Please circle your choice of answer**

I_____**(participant's full name)** have read and understand the "invitation to participate in the research" **YES/NO**

I indicate my willingness to participate in the research project by:

i) Taking part in 30-45 minutes audio recorded semi-structured interview at a suitable agreed time and place.

**YES/NO**

**ii)** Allowing the parents/guardians and children that we work with to contribute to this study-with their consent as well as the consent from their parents and legal guardians. **YES/NO**

If you answered **YES** above please indicate your understanding of the following:

- I understand that Cosmo Oasis can withdraw their consent at any time without any negative consequences. **YES/NO**

If you answered **YES** to (i) above please indicate your consent and understanding of the following:

- I understand that I the children may withdraw their participation at any time without negative consequences. **YES/NO**
- I understand that my participation and the children's participation is voluntary and that there are no negative consequences for choosing not to participate in this research: **YES/NO**
- I understand that all responses will be used for research and academic purposes and may be published in journals articles, conferences and books: **YES/NO**
- I understand that all responses will be used anonymously at all times and participants will not be identified in any research publications: **YES/NO**
- I understand that all research data will be kept securely on a password protected computer. **YES/ NO**

**N.B** If you tick **NO** to any of the above statements then;

(i) that particular action will not be done as part of your contribution to the research

**OR**

(ii) further explanation will be given to you to clarify what that particular statement means and you will still have the choice to select an option of your choice.

Signature_____ Date_____

## APPENDIX O: INFORMATION SHEET AND INVITATION TO PARTICIPATE IN RESEARCH FOR GDE OFFICIAL

Dear Respondent

My name is Vimbayi Matanhire and I am student in the School of Education at the University of the Witwatersrand.

I am doing research entitled **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.** The objectives of this study are to explore, investigate and inform the notable tension between human rights, conditions of their realisation and their impact on inclusive education.

Research findings from this study may in a small way make useful and contextual contribution to the growing body of knowledge around inclusive education, diversity and rights of migrants and citizens without legal documentation. Findings from the study could also contribute some awareness to policy makers to resolve the problem at hand and probably stimulate further research on the topic.

The reason why I have chosen your organisation is because your work involves enrolment and placement of children into schools. I was wondering whether you would mind if I could invite you to participate and contribute towards this study by participating in a single 30-45 minutes audio-recorded semi- structured interview with me at an agreed date and time. Audio-recording is important to accurately capture your responses and for transcription.

Pseudonyms (false names) will be used in place of your real names and all research data will be kept securely on a password protected computer. You will not be advantaged or disadvantaged in any way.

Your participation is voluntary, so you can withdraw your permission at any time during this project without any penalty. There are no foreseeable risks in participating in this study and there will be no payment for participating in this study.

Please let me know if you require any further information.

Thank you.

Yours sincerely,

Vimbayi Matanhire

matanhirev@gmail.com

0712806733

Supervisor

Professor Nazir Carrim

Nazir.Carrim@wits.ac.za

0117173025

Human Research Ethics Committee

Shaun Schoeman

Shaun.schoeman@wits.ac.za

0117171408

**APPENDIX P: INFORMED CONSENT FORM FOR GDE OFFICIAL**

## Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.

***Please fill in and circle your choice of answer**

I_____**(name)** give my consent for the following:

**Circle One**

- I agree to be participate in a single 30-45 minutes semi-structured interview with the researcher at an agreed time by the researcher

**YES/NO**

I indicate my willingness to participate in the research project by:

i) Being part of one 30-45 minute individual interviews at an agreed time by the researcher.

**YES/NO**

- I consent to take part in a single 30-45 minutes semi-structured interview. **YES/NO**

- I understand that I have the right to decline to answer any of the questions in the interview. **YES/NO**
- I understand that I may withdraw my participation in the interview at any time without negative consequences. **YES/NO**
- I understand that my participation is voluntary and that there are no negative consequences for choosing not to participate in this research: **YES/NO**

If you answered **YES** to having your contribution audio-recorded for accurate response capturing, please indicate your understanding of the following:

- I consent to have my interview audio-recorded for the purpose of accurate data collection and transcription. **YES/NO**

- I understand that my responses will be used for research and academic purposes and may be published in journals articles, conferences and books: **YES/NO**
- I understand that my responses will be used anonymously at all times and I will not be identified in any research publications: **YES/NO**
- I understand that all research data will be kept securely on a password protected computer. **YES/ NO**
- I know that my participation will be for collecting data to be used for this project only. **YES/NO**

- I know that I can decide to withdraw my participation at any given time without any negative consequences.
  . **YES/NO**

  **N.B** If you tick **NO** to any of the above statements then;

  (i) that particular action will not be done as part of your contribution to the research

  **OR**

  (ii) further explanation will be given to you to clarify what that particular statement means and you will still have the choice to select an option of your choice.

Signature_____Date_____

## APPENDIX Q: INFORMATION SHEET AND INVITATION TO PARTICIPATE IN RESEARCH FOR THE SOCIAL WORKER

Dear Respondent

My name is Vimbayi Matanhire and I am student in the School of Education at the University of the Witwatersrand.

I am doing research entitled **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.** The objectives of this study are to explore, investigate and inform the notable tension between human rights, conditions of their realisation and their impact on inclusive education.

Research findings from this study may in a small way make useful and contextual contribution to the growing body of knowledge around inclusive education, diversity and rights of migrants and citizens without legal documentation. Findings from the study could also contribute some awareness to policy makers to resolve the problem at hand and probably stimulate further research on the topic.

I request your services to be on standby and help with counselling of child participants that may present with distress as a result of taking part in the study. Should you agree to be on standby as I conduct my interviews and should you engage with any of the children it is requested that you keep all information confidential as you assist the participants. I intend to conduct four single 30-45 minutes audio-recorded semi- structured interview with children at an agreed date and time.

You will not be advantaged or disadvantaged in any way. Your participation is voluntary, so you can withdraw your permission at any time during this project without any penalty. There are no foreseeable risks in participating in this study and there will be no payment for participating in this study.

Please let me know if you require any further information.

Thank you.

Yours sincerely,

Vimbayi Matanhire

matanhirev@gmail.com

0712806733

Supervisor

Professor Nazir Carrim

Nazir.Carrim@wits.ac.za

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0117171408

**APPENDIX R: INFORMED CONSENT FORM FOR THE SOCIAL WORKER**

Title: **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.**

***Please circle your choice of answer**

I_____**(participant's full name)** have read and understand the "invitation to participate in the research" **YES/NO**

I indicate my willingness to participate in the research project by:

**i)** Being on the standby to provide my counselling services as the researcher conducts four 30-45 minutes audio recorded semi-structured interview at a suitable agreed time and place. **YES/NO**

If you answered **YES** above please indicate your understanding of the following:

- I understand that I can withdraw my consent at any time without any negative consequences. **YES/NO**
- I keep all information in outmost confidence. **YES/NO**
- I understand that my participation is voluntary and that there are no negative consequences for choosing not to participate in this research. **YES/NO**
- I understand that all responses will be used for research and academic purposes and may be published in journals articles, conferences and books: **YES/NO**
- I understand that all responses will be used anonymously at all times and I will not be identified in any research publications: **YES/NO**
- I understand that all research data will be kept securely on a password protected computer. **YES/ NO**

**N.B** If you tick **NO** to any of the above statements, depending on the statement;

(i) You will not be on standby to provide your counselling services as part of your contribution to the research

**OR**

(ii) further explanation will be given to you to clarify what that particular statement means and you will still have the choice to select an option of your choice.

Signature_____Date_____

## APPENDIX S: INFORMATION SHEET AND INVITATION TO PARTICIPATE IN RESEARCH FOR THE INTERPRETER

Dear Respondent

My name is Vimbayi Matanhire and I am student in the School of Education at the University of the Witwatersrand.

I am doing research entitled **Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa.** The objectives of this study are to explore, investigate and inform the notable tension between human rights, conditions of their realisation and their impact on inclusive education.

Research findings from this study may in a small way make useful and contextual contribution to the growing body of knowledge around inclusive education, diversity and rights of migrants and citizens without legal documentation. Findings from the study could also contribute some awareness to policy makers to resolve the problem at hand and probably stimulate further research on the topic.

I request your services to be on standby and help with interpretation of information to my participants should need arise. Should you agree to be on standby as I conduct my interviews and should you engage with any of the children it is requested that you keep all information confidential. What you discuss may only be shared with me. I intend to conduct four single 30-45 minutes audio-recorded semi- structured interview with children at an agreed date and time.

You will not be advantaged or disadvantaged in any way. Your participation is voluntary, so you can withdraw your permission at any time during this project without any penalty. There are no foreseeable risks in participating in this study and there will be no payment for participating in this study.

Please let me know if you require any further information.

Thank you.

Yours sincerely,

Vimbayi Matanhire

matanhirev@gmail.com

0712806733

Supervisor

Professor Nazir Carrim

Nazir.Carrim@wits.ac.za

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UNIVERSITY OF THE WITWATERSRAND, JOHANNESBURG

Research Office

**HUMAN RESEARCH ETHICS COMMITTEE (NON-MEDICAL)**
R14/49 Matanhire

| | |
|---|---|
| **CLEARANCE CERTIFICATE** | **PROTOCOL NUMBER: H19/08/19** |
| **PROJECT TITLE** | Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa |
| **INVESTIGATOR(S)** | Mrs V Matanhire |
| **SCHOOL/DEPARTMENT** | Education/ |
| **DATE CONSIDERED** | 16 August 2019 |
| **DECISION OF THE COMMITTEE** | Approved |
| **EXPIRY DATE** | 16 October 2022 |

**DATE** 17 October 2019

**CHAIRPERSON** pp (Professor J Knight)

cc: Supervisor : Professor N Carrim

**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 procedure as approved I/we undertake to resubmit the protocol to the Committee. **I agree to completion of a yearly progress report.**

VM Matanhire
**Signature**

31/10/19
**Date**

**PLEASE QUOTE THE PROTOCOL NUMBER ON ALL ENQUIRIES**

**University of the Witwatersrand**
**Braamfontein**

3 February 2024

Attention: Ms. Vimbai Matanhire

By Email: matanhirev@gmail.com

Dear Vimbai,

**EDITOR'S DECLARATION: THESIS ENTITLED "INCLUSIVE EDUCATION AND THE PLIGHT OF CHILDREN WITHOUT LEGAL DOCUMENTATION: A CASE STUDY OF COSMO OASIS IN JOHANNESBURG, SOUTH AFRICA."**

I hereby certify that I have extensively edited this thesis, "Inclusive education and the plight of children without legal documentation: A case study of Cosmo Oasis in Johannesburg, South Africa," by Ms. Vimbai Matanhire, in terms of language, expression and sentence structure, using the Track Changes function on the computer.

However, the student has the choice of accepting or rejecting any changes, and the final document remains the responsibility of the student.

Sincerely yours,

*Derek*

***Dr. Derek R. Verrier***
***Pr.Eng., BSc(Eng), GDE, MSc(Eng), M.Phil (Leadership), D.Phil (Leadership), PDME, B.Th.***