

# Documenting the Experiences of Undocumented Learners in South African Public Schools: An Impact Study

Shonaphi F. Mashele<sup>1\*</sup>, Barber Mbangwa Mafuwane<sup>2</sup>

<sup>1</sup>PhD, Orhovelani High School, Mpumalanga Province, South Africa

<sup>2</sup>PhD, Mvuyazi Primary School, Mpumalanga Province, South Africa

DOI: <https://doi.org/10.36348/jaep.2024.v08i11.005>

| Received: 19.10.2024 | Accepted: 22.11.2024 | Published: 25.11.2024

\*Corresponding author: Shonaphi F. Mashele

PhD, Orhovelani High School, Mpumalanga Province, South Africa

## Abstract

The status of being an undocumented learner presents a myriad of learning challenges to the affected learners. Schools in South Africa, particularly in the rural areas and those areas along the borders with Mozambique and Zimbabwe, have over a million undocumented learners who are either children of South Africans or children born from non-South African parents. The purpose of this study is to explore the experiences of the undocumented learners, their parents, and the schools against the findings of the Phakamisa judgement of 2017, Case No.2480/2017 which was held in the Eastern Cape High Court in Grahamstown. The undocumented learners are children who join the schooling system; grow up being undocumented in the system, become teenagers or young adults in the system and end up exiting the system without anything to show for the number of years they stayed in the system. This paper explores the problem faced by undocumented learners and its implications to them in the classroom and beyond. This paper will, in concert with the findings of the Phakamisa judgement, implore the policy makers to move beyond compliance and put together policies that will protect the right of children through interdepartmental cooperation to fast track the documenting of learners at birth, irrespective of the status of their parents.

**Keywords:** Phakamisa Judgement, Undocumented Learners, Access to Education, Refugees, Exclusion of Learners.

**Copyright © 2024 The Author(s):** This is an open-access article distributed under the terms of the Creative Commons Attribution 4.0 International License (CC BY-NC 4.0) which permits unrestricted use, distribution, and reproduction in any medium for non-commercial use provided the original author and source are credited.

## INTRODUCTION

Access to basic education is everyone's right that is embraced by countries worldwide. This right is enshrined in the Bill of Rights, chapter 2 of the constitution of the Republic of South Africa. Unfortunately, this right is often infringed upon by policies that are introduced by countries to address other issues. The admission policy issued by the Department of Basic Education (DBE) for ordinary public schools which has been in place since 1998 is one policy that was found to have clauses that infringed upon the rights of children to basic education by the Eastern Cape High Court in December 2019 under the famously known Phakamisa Judgement. In the landmark court ruling, the court declared clauses 15 and 21 of the policy unconstitutional and set them aside (South African Government News Agency, 2019).

The matter in contention was the exclusion of learners from schools for failing to submit a birth certificate or any identification document as prescribed

by the admission policy. Before the ruling, a parent who applied for admission to a public school had to provide one of the following documents: birth certificate, immunisation card, court placement order, study visa, permanent residence permit, refugees visa or identity document (Department of Basic Education, 1998). More often learners were excluded from schools or refused admission by school principals and school governing bodies (SGBs) for failing to provide any of the above mentioned documents. The issue of undocumented learners and how this affects their education has not been thoroughly researched and the researchers in this paper believe that the conceptualisations that are made in this paper will inform and stimulate further inquiry on the subject.

### Theoretical Framework

This study adopted the Critical Race Theory (CRT) which was developed in the 1970s to conceptualize and critique power imbalances and structural inequalities as they relate to race and law (Disney, Koo, Carnes and Warner, 2022). As will be

established in the next sections of this study that the subject of undocumentedness received much scholarly attention in developed countries like the United States and Europe than the developing countries, literature from the developed countries will be used for the purpose of this framework.

Aguilar (2018) identified several tenets of CRT which include Undocumented Critical Theory (UndocuCrit), Latino Critical Theory (LatCrit), and Tribal Critical Race Theory (TribalCrit). According to Aguilar (2018), UndocuCrit introduces the lens to better understand the nuanced and liminal experiences that characterize undocumented communities in the US. UndocuCrit was adopted as the appropriate lens to understand the experiences of undocumented South African children of school-going age and their parents as they navigate through the challenges that come with their undocumentedness. Its relevance for this study is further strengthened by the fact that as a tenet of CRT, it has the potential to examine and critique policies and practices in education which are oppressive and discriminatory.

### Contextualising the Problem

Learners who do not have one of the required identification documents, irrespective of their parents' origin or citizenship status, are known as undocumented learners. The term "undocumented" is contested (Jolly, Thomas, & Stanyer, 2020) and it is used variably in different contexts but for the purposes of this study, it will be used to refer to an individual of school-going age who intends to be admitted in a school without possessing the required documentation (South African Human Rights Commission, 2019). In South Africa, undocumented learners include children of both South African and non-South African parents but in other countries like the United States of America (USA), the concept refers to children that were born outside the country but immigrated there later (Enyioha, 2019). In the United Kingdom (UK), on the other hand, the concept refers to people who do not have authorised leave to be in the UK (Bloch, Sigona, & Zetter, 2009).

The problem of undocumented learners is one of the most important issues of our era and it warrants attention (Gonzales, 2015). Being undocumented poses challenges to both the parents and the learners themselves. It is estimated that globally, one-fourth of children who are under the age of five are undocumented (South African Human Rights Commission, 2019). It must therefore be acknowledged that undocumentedness is a global phenomenon that affects people and countries across the world (Rajagopalan, 2015). This study explores the causes, implications and consequences of the problem and suggests possible solutions that directly impact learners' lives and their future.

According to Kelly (1997) cited in Jolly, Thomas and Stanyer (2020), estimating the size of undocumented people is like counting the uncountable,

and Brenner and Malinga (2019) estimated that South African schools have more than one million undocumented learners. Carlilse (2019) indicated that 83.2% of these are South African children whose parents, guardians or caregivers have not yet managed to obtain birth certificates for them while 16.7% are children of foreign parents. The South African Human Rights Commission (2019) listed several issues that include challenges in the registration of births and deaths, international migrations, statelessness and asylum seeker processes as being responsible for the lack of documentation for these learners.

### Learners' Rights to and Benefits of Schooling

The Eastern Cape high court ruling (the Phakamisa judgement) declared that all undocumented learners, including the children of illegal foreigners, are entitled to receive basic education (Carlisle, 2019; South African Government News Agency, 2019). This ruling had several implications for the DBE such as providing funding and access to the National School Nutrition Programme (NSNP) for undocumented learners who were not catered for before. The court found that the exclusion of learners from school due to lack of documents contravened Section 29(1) of the Constitution of the Republic of South Africa which states that, "Everyone has a right to basic education, including adult basic education (South Africa, 1996). The ruling brought a sigh of relief to the parents who had to fight against schools to ensure that their children were not excluded from learning. Crush and Tawodzera (2011) contend that the admission policy contravenes the Southern African Development Community (SADC)'s Education Protocol and several global human rights conventions to which South Africa is a signatory.

The South African Human Rights Commission (2019) estimated that 5% of South African children do not have birth certificates and it further asserted that the majority of these are poor black learners from rural backgrounds. Studies conducted in other countries suggest that most undocumented learners are from families that live below the poverty line. This explains why these families have difficulty in following the complex challenges that are associated with the application for identification documents. Rurality plays a key role in the problem of undocumentedness because it has its unique challenges that may take the attention of the affected learners' parents away from pursuing the route of obtaining an identification document to other issues. Rurality is often linked to deprivation, isolation, poverty, and backwardness (Nkambule, Balfour, Pillay, & Moletsane, 2011) and these may get a higher position on the parents' priority list than applying for child's identification documents.

Dealing with the problem of undocumented learners is a long and costly process that has serious financial costs to the affected families. It is also a problem to school principals and SGB's that must bear

the brunt of constantly reminding parents of the undocumented learners to submit the required documents. The laws that regulate the application for South African citizenship and the way in which they are enacted by the Department of Home Affairs (DHA) make it difficult for the parents to ensure that their children are documented (Vorster, 2017). The Department of Social Development (DSD) is tasked with dealing with issues of liaising with parents and caregivers to assist undocumented children to get their identification documents. Regrettably, social workers are reluctant to deal with cases of undocumented children because of the complexities that are associated with being an undocumented child (Scalabrini, 2020).

The researchers have taught in rural schools in Mpumalanga for more than thirty years and have first-hand experience of the challenges that undocumented learners encounter in their schooling lives. The problem has been there for a long time and there is little hope that it is going to be resolved any time soon. In some instances, the learners pass Grade 12 without documentation and they are expected to face a limiting life with no identification documents.

### **The Archaeology of Undocumentedness in Mpumalanga Province**

In Mpumalanga province, the problem was aggravated by the influx of refugees from Mozambique who had fled into South Africa during the civil war between the Mozambican government forces and Mozambican National Resistance (RENAMO). However, in the Gazankulu homeland (part of it is now in Mpumalanga), the refugees were treated as visiting relatives and they were not arrested and repatriated (Murray, 1986). The refugees were also allowed to stay in the homeland of Kangwane (in Mpumalanga) with no threat of being deported (Crush & Williams, 2001; Murray, 1986). These refugees were allowed to stay without proper documentation. They gave birth to children in South Africa and these were not documented because of their parents' immigration status.

In 1996 the citizens of the 14 member states of the Southern African Development Community (SADC) were granted amnesty to apply for citizenship by the South African government (Golooba-Mutebi & Tollman, 2004). In the same year, the South African government took a decision to give Mozambican refugees who had not benefitted from the SADC amnesty application an opportunity to apply for permanent residence status if they wished to remain in the country (Crush & Williams, 2001). The amnesty was carried out by the DHA between August 1999 and February 2000. For some reason, some of the refugees could not be documented. Another source of influx was Zimbabwe where the country's leadership had destroyed the economy and its people had to cross the border to earn a living in South Africa (Crush & Tawodzera, 2011).

It must be pointed out that the problem of undocumentedness that originated from outside and subsequently caused spillover effects upon schools is not only caused by immigration problems. It is outright impossible to register a child if the mother is undocumented or where the parents cannot be traced or are deceased even if they were South African citizens (Carlisle, 2019; South African Human Rights Commission, 2019). Sometimes systemic challenges make it almost impossible even for minors who are born to South African parents to obtain birth certificates, thus causing some schools to deny them admission or to exclude them (Cassette & Tricia, 2019). These challenges inadvertently turn native South African children into foreigners or stateless children.

In some cases, children who grow up with relatives in extended families often face the challenge of being undocumented when their parents have passed away and there are no records on the birth and death register or when their families do not have enough resources to follow all the required steps for the registration of birth with the DHA. These relatives' socio-economic status contributes significantly to the problem of undocumented children. In such cases, the family's poverty level determines the future of the children because the lack of financial resources that should take the relatives to the nearest DHA offices to apply makes it impossible for the child to be documented.

Additionally, the parents or caregivers of those children sometimes fail to meet the inflexible requirements of the Births and Deaths Registration Act. Unmarried fathers, for example, are not allowed to register the births of their children without the mother of the child being present (Broughton, 2019). A father may fail to register the birth of his child if the mother is nowhere to be found and he cannot afford a paternity (DNA) test (Vorster, 2017). Schools are trapped between the legislation that guarantees everyone the right to education in line with the country's constitution and the immigration legislation that prevents them from teaching undocumented learners (UNESCO, 2018).

### **The DBE Admission Policy and its Place in the Admission of Undocumented Learners**

The DBE's Admission Policy for Ordinary Public Schools of 1998 is a policy that was developed from a good understanding of the problem of undocumented learners and it was intended to align with Section 39 of the Immigration Act No.13 of 2002 (South Africa, 2002) which prohibits the provision of training or instruction to an illegal or unauthorised foreigner. This means that schools or any other institutions are not allowed to have people in their premises who receive training without proper documentation. Principals who allow learners to attend classes in their schools are deemed to be committing an offence and may be fined or even imprisoned for such a move (Antoninis, 2020). This

section, together with clauses 15 and 16 of the DBE's admission policy which schools apparently adhered to when they rejected or excluded undocumented learners were found to contradict Section 29 (1) of the Constitution and they were declared unconstitutional by the high court in the Eastern Cape.

Giving all children of school-going age access to basic education as declared by the court judgement creates new possibilities for the undocumented learners to complete high school, but it also brings with it new dilemmas about their future after completing high school. In other words, it only solves one part of a much bigger and complex problem. It solves the problem of access to basic education as a mandatory human right, but it does not solve the problem of undocumentedness that the learners in question must deal with after the litigation. The ruling helps the learners to be kept in school with no threat of being excluded but it does not give a solution to the problem of their documentation for meaningful citizenship in the later stages of their lives. In terms of the Births and Deaths Registration Act (South Africa, 1992), all children born in South Africa must be registered within 30 days of their birth. The DBE's policy comes into effect years after this act has been applicable to a child who is sent to school to learn.

Hypothetically, if there are challenges regarding the registration of birth, such challenges should be solved long before the child goes to school and schools should not be dealing with such issues. Stated another way, the parent or caregiver of a child has a duty to visit the DHA years before he or she applies for admission at a school. This is the premise the DBE's admission policy took when directing schools on the matter of documentation. In the event of problems between the DHA and the parent or caregiver, the latter has ample time to refer the matter to the DSD to intervene and assist in the matter between the two parties.

### **The Extent of Research on the Subject of Undocumented Learners in South Africa**

Much of the information that is known about undocumented children comes from research that was done in developed countries of the west and Europe (Rajagopalan, 2015) and there are gaps in the current literature on undocumented learners in developing countries like South Africa. In this paper we argue that the DBE's admission policy was designed with the intention to solve documentation problems that schools encounter, but the problem does not necessarily fall within the scope of its (DBE's) mandate. In the process of enacting the policy, schools unknowingly found themselves playing a gatekeeping role on behalf of the DHA. We further contend that the DBE's decision to accept the court ruling and its subsequent substitution of Circular No.1 of 2019 with Circular No.1 of 2020 was merely a matter of compliance with no conviction.

Giving learners access to basic education opens the doors to formal employment opportunities and services that are essential to their adult life. But permitting undocumented learners' admittance to basic education without solving their problem of documentation, on the other hand, makes them vulnerable to exploitation by unscrupulous employers in the informal sector and it may increase their risk of being victims of human trafficking. Giving documents to every learner promotes their rights and protection (Human Rights Watch, 1998; South African Human Rights Commission, 2019). Additionally, educating learners without documents further entrenches the goals of the apartheid ideology which were to produce black people who were educated enough to be "non-competitive cheap labour" for white people and to promote white supremacy (Christie & Collins, 1982).

This era of yesteryear is alive and well in the nostalgic minds of those who have benefited from it and they use every available opportunity to revive it because it effectively drives down the labour costs and large-scale exploitation of the undocumented black people (Bloch *et al.*, 2009). The phrase "black people" is used deliberately in this paper to emphasise that most of the undocumented learners in South African schools are black (Broughton, 2019). Learner undocumentedness has the potential of subjecting the country's black youth to a form of modern era apartheid that endorses economic slavery and reversing the country's hard-earned democratic gains. Antonio Gramsci correctly asserted that, "no social formation disappears as long as the productive forces which have developed within it still find room for further forward movement" (Forgacs, 2000).

### **Undocumented Learners Within and Beyond the Four Corners of the Classroom**

"I will study and be ready; then maybe the chance will come"- (Abraham Lincoln). The preceding quotation captures the essence of being an undocumented learner where hope is the only thing that inspires the outlook into the future. Undocumented learners face uncertainty, fear and stress which create psychological issues that may increase the risk of suicide due to low self-esteem, guilt, shame, fear, and insecurity (Connery, 2018, p. 2). Learners' documentation status affects the way in which they interact with their learning environments and the outcomes of this interaction have far-reaching repercussions. This means that the state of being undocumented impacts directly on the learners' ability to learn. Being undocumented has substantial impact on the everyday lives of young people and it creates some kind of marginality that is tantamount to non-existence (Bloch *et al.*, 2009).

Furthermore, undocumented learners are often stigmatised at school and this affects their academic performance negatively (Todd, Ayala, & Barraza, 2020). The academic failure and the inability to learn are end-products of the lack of concentration in the classroom

due to the learners' uncertain documentation status. Due to the many challenges that undocumented learners go through, their academic success is dependent on a schooling environment that is welcoming and free from discrimination (Connery, 2018). Less than half of the undocumented learners complete high school due to the discriminating circumstances that they encounter (Michaels, 2020).

The available literature on undocumented learners is silent on the number of South African learners that drop out of school because of being undocumented but it does indicate that tens of thousands of Zimbabwean and Mozambican migrant learners do not complete high school due to documentation issues (Ncube, 2018). There are no chronicled classroom experiences of undocumented South African learners but some studies indicate that children of migrant parents are sometimes subjected to verbal abuse, taunting, name-calling and other derogatory comments (Crush & Tawodzera, 2011). These incidents are not necessarily linked to the learners' documentation status, but they have xenophobic undertones that may contribute adversely to their academic performance (Connery, 2018). It is a known fact that children of migrant parents are exposed to high levels of xenophobia in South Africa (Opfermann, 2020). Schools with undocumented learners should, therefore, try as much as possible to create and maintain hospitable environments that make the learners receptive to the learning content that is delivered in the classroom.

The insurmountable challenges that undocumented learners face in the classroom and beyond, dictate that no effort should be spared in following the processes of obtaining their documents. Before the court ruling, undocumented learners did not benefit from the National Norms and Standards for School Funding (NNSF) budget allocation for the schools where they attended and this implied that they could not have access to the NSNP and other resources like textbooks (Equal Education Law Centre, 2020; South African Human Rights Commission, 2019). It must be noted that the DBE's case in the high court was anchored, amongst other things, on the protection of limited resources from being used by undocumented learners (Broughton, 2019). After the ruling, the DBE withdrew the exclusions through Circular No 1 of 2020 which retracted Circular No 1 of 2019 that reinforced the admission policy. It is unclear at this point if the directives that are given in the latter circular mean that undocumented learners can now be budgeted for in the NSNP and learner teacher support material (LTSM) by the provincial education departments (PEDs) through the NNSF.

Although the literature on undocumented learners and students is sparse, we attempted to theorise the implications based on the few available sources. The difficulties that minors, their parents, guardians, or caregivers experience when they apply for identification

documents result in some of them never getting documented. This means that their twelve years of school in case they reach Grade 12 become fruitless because their future depends on having proper identification documents. An education system of a country prepares its youth to become future workers, politicians, businesspeople etc. and as such, no system should allow a situation where its undocumented youth remain without documents until they exit it. If they complete high school without being documented, it will be the end of their academic dreams because they cannot be admitted to tertiary institutions and their dreams of formal employment become a pipe dream.

When the doors of learning are opened to learners through the Bill of Rights and only to be shut by a lack of documentation, then it is appropriate to indicate that the education system is failing the learners. These undocumented youths will spend their lives on the fringes of society with little or no protection from criminal elements like slum lords and drug traffickers who are likely to take advantage of their desperation (Parliamentary Monitoring Group, 2019). Being undocumented affects every aspect of a youth's life because they cannot be legally employed, open a bank account, or get married (Shoba, 2020).

In later life these youth, if not yet documented, are likely to be employed in the informal sector where they will be criminalised for having no identification documents, paid low wages, exploited, have no access to health care, banking and other services, deprived of benefits like pension and medical aid (Crush & Williams, 2001; Jolly *et al.*, 2020; Muanamoha, Maharaj, & Preston-Whyte, 2010). The youths that will fail to get identification documents in their lifetime are in essence denied the opportunity to contribute formally to the economy and the society (Ncube, 2018). Thus, the education that they receive must be the fundamental tool that they use to eradicate poverty and to empower their society (South African Human Rights Commission, 2019).

Undocumented children lose the hope of being able to rid themselves of poverty or being afforded the opportunity to participate meaningfully in society. These children are stripped of their self-esteem, self-worth and potential for human fulfilment and they may end up engaging in criminal activities (Broughton, 2019). Ironically, their lack of documentation will make it difficult for law enforcement agencies to track them in case they get involved in criminality (Vorster, 2017). At a general level, being undocumented is characterised by uncertainty about the future and it creates anxiety for the people affected. 'Undocumentedness' conquers the affected individual's emotional well-being and leads to a ghostly existence that is often associated with distrust for others (Bloch *et al.*, 2009, p. 9).

Such learners live in fear because of their legal status as they anxiously wait for anything that may rescue them from the state of being undocumented. They practically live on the edge between being learners and dropouts. They therefore, need psycho-social support from their peers and counsellors to assure them during the time of their vulnerability (Todd *et al.*, 2020).

### The Roadmap

The problem of undocumented youth as alluded to above is not educational but social and it needs the right attitude and intent to deal with it. Schools only feature in this matter because they find themselves in a situation where they are expected to follow directives from the DBE and the Department of Home Affairs (DHA). The DBE's admission policy states that "when a parent applies for admission of a learner to an ordinary public school, the parent must present an official birth certificate of the learner" (Department of Basic Education, 1998, p. 3) and the DHA echoes the same sentiment that a foreign learner must submit an unabridged birth certificate and a copy of his or her identity document, if applicable (South Africa, 2014, p. 21).

The DBE's admission policy and the DHA's immigrations act should be amended to remove schools from the burden of deciding whether to give or deny access to the basic right to education. Most of the problems of lack of documentation for children could be solved with some critical amendments to the Birth and Death Registration, and Citizenship Acts. The DHA should also consider amending the birth registration act in such a way that a child's birth registration is not dependent on the parents (Scalabrini, 2017). These would come at a little cost than the negative impact it has on the lives of people.

Undocumented children cost the taxpayer millions of rands in legal costs and resources spent trying to resolve their problem and this could be simplified by the DHA's will to handle their issue and changing their lives (Vorster, 2017). Furthermore, the Department of Social Development (DSD) should play an active role in assisting undocumented children in finalising their documentation so that by the time they are of school-going age, they are documented. At the point where schools begin to interact with children, the issue of documents in the case of South African children should have been resolved long before. Schools serve the sole purpose of equipping learners with knowledge and skills as they undertake the journey to adulthood and their mandate should not be inundated with issues of documentation. Antoninis (2020) correctly argued that schools alone cannot be trusted with the authority of checking learners' documentation for admission purposes as this may not be a risk-free option.

The DBE's acceptance to offer basic education to undocumented learners in schools is a matter of

compliance to the call for the basic right but it only passes the problem to other sectors of the society. It probably accepted the court ruling to avoid a protracted legal battle but as things stand, its provision of education to undocumented learners may be regarded as fruitless expenditure if the learners' documentation concerns are not attended to and solved by the DHA and DSD. This is not a problem that should be solved by the DBE, but it needs an inter-departmental effort to sort it out. This is a matter that needs the various departments of the state that are linked to the issue of undocumentedness to work together in the spirit of co-operative governance to address it as soon as possible (South African Human Rights Commission, 2019).

Interest groups like the South African Human Rights Commission, Committee on the Rights of the Child, Centre for Child Law and other stakeholders must come on board to contribute towards the elimination of the problem of undocumentedness so that the affected youth enjoy their right to participate meaningfully in society. The fight for the right to education should always be spot-welded to the fight for the right to be documented so that the youth end up with education that can be applied to different life situations. The red tape that is involved in documenting learners without identification documents is synonymous with punishing innocent children for the wrongdoing of their parents because it is not their fault that they are without documents (Broughton, 2019; Gonzales, 2015; Ncube, 2018; Scalabrini, 2017). Many children who are entitled to South African citizenship end up being stateless, undocumented, and consequently uneducated because of this problem. At regional level, SADC should provide permanent solutions to the problem of undocumentedness through encouraging its member states to cooperate on developing a migration policy that will be implemented regionally (Human Rights Watch, 1998).

### Recommendations for Future Studies

The problem of undocumented learners is understudied, underexplored, and overlooked in South Africa. Scholarly literature on this important topic is scant and this points to a need for research on undocumentedness. We recommend that studies be conducted on the number of undocumented learners that drop out of the schooling system and those that complete high school. In the cases of those that drop out of school before completion, it would be interesting to get empirical data on the reasons why they dropped out to gain a better understanding of the circumstances around undocumentedness and its impact on their schooling. One study that was conducted in the USA linked low academic performance to being undocumented (Michaels, 2020) and this is one area that needs to be investigated in the context of developing countries. Further studies should be conducted on the psychosocial experiences of being undocumented. Tapping on these areas would assist policymakers in education and

elsewhere to understand the implications of the current policies on undocumented learners to ensure that their drawbacks are avoided in future policies.

## CONCLUSION

The problem of undocumented learners as explored in this paper is not hypothetical but real. It affects real people's lives, and it is one of the most pressing universal issues of the 21<sup>st</sup> century. Being undocumented adversely affects a child's learning life in the classroom and it has the potential to follow him or her throughout his or her life. It is a matter that affects learners born to South African and foreign parents alike and it must be dealt with determination and intent so that it is completely eliminated. The education system faces a lot of challenges regarding the provision of quality education to learners and it should not be dealing with other departments' operational mandates like documentation of learners.

## REFERENCES

- Aguilar, C. (2018). *Undocumented Critical Theory. Cultural Studies – Critical Methodologies*. SAGE Publications. DOI: 10.1177/1532708618817911.
- Antoninis, M. (2020). Migrant children's education must be ensured, not promised. *Mail & Guardian*, 1–6. Retrieved from <https://mg.co.za/article/2019-05-03-00-migrant-childrens-education-must-be-ensured-not-promised/>
- Bloch, A., Sigona, N., & Zetter, R. (2009). No right to dream: The social and economic lives of young undocumented migrants.
- Brenner, S., & Malinga, V. (2019, September 18). Attending school while undocumented. *Daily Maverick*, .
- Broughton, T. (2019). Undocumented children win right to basic education. *New Frame*. <https://doi.org/10.2307/j.ctvj7wq2j>
- Carlisle, A. (2019). SA's Undocumented Children Have a Right to Free Education, EC High Court Rules. *DispatchLive*. Retrieved from <https://www.timeslive.co.za/news/south-africa/2019-12-12-sas-undocumented-children-have-a-right-to-free-education-ec-high-court-rules/>
- Cassette, J., & Tricia, E. (2019). Undocumented children and their right to basic education: 'Once you learn to read you will forever be free.' *Pro Bono & Human Rights Alert*, 1–4.
- Christie, P., & Collins, C. (1982). Bantu Education: Apartheid ideology or labour reproduction? *Comparative Education*, 18(1), 59–75. <https://doi.org/10.1080/0305006820180107>
- Connery, C. (2018). The Impact of Undocumented Status on Children's Learning: Implications for Schools. *Center for Education Policy Analysis*.
- Crush, J., & Tawodzera, G. (2011). *Right to the Classroom: Educational Barriers for Zimbabweans in South Africa* (J. Crush, Ed.). Cape Town: SAMP.
- Crush, J., & Williams, V. (2001). The Point of No Return: Evaluating the Amnesty for Mozambican Refugees in South Africa. *Southern African Migration Project*, 6, 1–54.
- Department of Basic Education. (1998). *Admission Policy for Ordinary Public Schools* (pp. 1–9). 1–9. <https://doi.org/10.1037/0033-2909.126.1.78>
- Disney, L., Koo, J., Carnes, S., & Warner, L. (2022). Essential but Excluded: Using Critical Race Theory to Examine COVID-19 Economic Relief Policies for Undocumented US Workers. *Journal of Human Rights Social Work*, 7(3), 225–235. doi: 10.1007/s41134-021-00202-z.
- Enyioha, J. C. (2019). College Access for Undocumented Students and Law. *Educational Considerations*, 45(1). <https://doi.org/10.4148/0146-9282.2168>
- Equal Education Law Centre. (2020). *Joint Statement # COVID19 – The Department of Basic Education must present clear and comprehensive plans to the public*.
- Forgacs, D. (2000). The Gramsci Reader: Selected Writings 1916–1935. In D. Forgacs (Ed.), *New York University Press*. Retrieved from <papers://c7e2c9f4-f55f-43ef-843e-da85e2e186c1/Paper/p96>
- Gardiner, M. (2008). Education in Rural Areas. In J. Pampallis (Ed.), *Issues in Education Policy*. Retrieved from <http://www.3rs.org.za/index.php?module=Pagesetter&type=file&func=get&tid=2&fid=document&pid=7>
- Golooba-Mutebi, F., & Tollman, S. M. (2004). Survival to livelihood strategies for Mozambican refugees in South Africa. *Europe Pubmed Central*, 20, 28–29. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2999895/>
- Gonzales, R. G. (2015). Imagined futures: Thoughts on the state of policy and research concerning undocumented immigrant youth and young adults. *Harvard Educational Review*, 85(3), 518–525. <https://doi.org/10.17763/0017-8055.85.3.518>
- Human Rights Watch. (1998). *Abuse of Undocumented Migrants, Assylum-Seekers, and Refugees in South Africa*. New York.
- Jolly, A., Thomas, S., & Stanyer, J. (2020). *London's children and young people who are not British citizens: A profile*. <https://doi.org/10.13140/RG.2.2.13839.12964>
- Michaels, E. (2020). Beyond Academic Achievement Outcomes: The Impact of School on the Immigrant Political Incorporation of Undocumented Latinx Youth. *Youth and Society*, 52(7), 1285–1311. <https://doi.org/10.1177/0044118X20913733>
- Muanamoha, R. C., Maharaj, B., & Preston-Whyte, E. (2010). Social networks and undocumented Mozambican migration to South Africa. *Geoforum*,

- 41(6), 885–896.  
<https://doi.org/10.1016/j.geoforum.2010.06.001>
- Murray, C. (1986). Mozambican Refugees: South Africa Africa's Responsibility. *South African Journal on Human Rights*, 2(2), 154–163. Retrieved from HeinOnline
  - Ncube, M. (2018). Why South Africa's Undocumented Teens Are Dropping Out of School. *The New Humanitarian*. Retrieved from <https://deeply.thenewhumanitarian.org/refugees/community/2018/03/06/deeply-talks-picturing-refugees>
  - Opfermann, L. S. (2020). 'If you can't beat them, be them!'—everyday experiences and 'performative agency' among undocumented migrant youth in South Africa. *Children's Geographies*, 18(4), 379–392.  
<https://doi.org/10.1080/14733285.2019.1646890>
  - Parliamentary Monitoring Group. (2019). Impact of illegal migration on cities: input from Joburg & Ekurhuleni Mayors, SALGA & Minister. *Parliamentary Monitoring Group*. Retrieved from <https://pmg.org.za/committee-meeting/29125/>
  - Rajagopalan, K. (2015). Global 'undocumentedness'. *Journal of International Affairs*, 68(2), 225–243.
  - Scalabrini. (2017). Our call to action: birth registration in South Africa | Scalabrini. *Scalabrini Centre of Cape Town*. Retrieved from <https://scalabrini.org.za/news/our-call-to-action-birth-registration-in-south-africa/>
  - Scalabrini. (2020). The impact of being an undocumented child. *Scalabrini Centre of Cape Town*. Retrieved from <https://scalabrini.org.za/news/the-impact-of-being-an-undocumented-child/>
  - Shoba, S. (2020). No papers, no rights: The plight of undocumented foreign children in SA. *Daily Maverick*. Retrieved from <https://www.dailymaverick.co.za/article/2019-08-07-no-papers-no-rights-the-plight-of-undocumented-foreign-children-in-sa/>
  - South Africa. (1992). Act No.51 of 1992: Births and Deaths Registration Act, 1992. *Government Gazette*, 323(13953), 1–21.
  - South Africa. (1996). *The Constitution of the Republic of South Africa* (Vol. 7). <https://doi.org/10.2307/1974131>
  - South Africa. (2002). No. 13 of 2002: Immigration Act, 2002. *Government Gazette*, 443(23478), 1–84. Retrieved from [http://www.nsw.gov.au/sites/default/files/Government\\_Gazette\\_2\\_December.pdf#page=15](http://www.nsw.gov.au/sites/default/files/Government_Gazette_2_December.pdf#page=15)
  - South Africa. (2006). South African Schools Act, 1996 (Act No 84 of 1996) Amended National Norms and Standards for School Funding. *Government Gazette*, 869(29179), 1–53. Retrieved from [https://www.gov.za/sites/default/files/gcis\\_document/201409/29179.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/29179.pdf)
  - South Africa. (2014). Act No. 3 of 2007: Immigration Amendment Act, 2007. In *Government Gazette* (Vol. 583). Retrieved from [http://www.greengazette.co.za/pages/national-gazette-37230-of-17-january-2014-vol-583\\_20140117-GGN-37230-003](http://www.greengazette.co.za/pages/national-gazette-37230-of-17-january-2014-vol-583_20140117-GGN-37230-003)
  - South African Government News Agency. (2019). Undocumented learners must be admitted, court finds. *South African Government News Agency*. Retrieved from <https://www.sanews.gov.za/south-africa/undocumented-learners-must-be-admitted-court-finds>
  - South African Human Rights Commission. (2019). *Position Paper Access to a Basic Education for Undocumented Learners in South Africa September 2019*. (September), 1–21.
  - Todd, A., Ayala, C., & Barraza, K. (2020). School Counselors Working With Undocumented Students in K-12 School Settings. *Journal of School Counseling*, 18(14), 1–34.
  - UNESCO. (2018). Global Education Monitoring Report Youth Report 2019: Migration, Displacement and Education – Building Bridges, not Walls. In *Global Education Monitoring Report*. Paris.
  - Vorster, R. W. (2017). Undocumented children in SA: Averting the coming catastrophe. *Daily Maverick*. Retrieved from <https://www.dailymaverick.co.za/opinionista/2017-06-12-undocumented-children-in-sa-averting-the-coming-catastrophe/>