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Child refugee rights in Cape Town:

The right to access education

By

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A minor dissertation submitted in partial fulfilment of the requirements for the reward of
the degree of Master of Philosophy in Development Studies



Faculty of Humanities

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COMPULSORY DECLARATION

This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.

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Abstract

Child refugee rights are a pertinent issue in the Republic of South Africa. South Africa's progressive Constitution (1996) stipulates the right of all children to access education without discrimination. This research project used a rights based approach to education research to identify some of the factors that promote or hinder child refugee access to education. I used qualitative case study methodology to collect data from Cape Town, South Africa. I collected data from multiple sources consisting documents, media articles and interviews. I used stratified purposive sampling to select respondents. My respondents included NGO representatives that work with refugees, school authorities and refugees with children in Cape Town. I analysed Department of Home Affairs and Department of Basic Education policy documents and press releases, NGO reports and media articles reporting on child refugee rights to education. Multiple methods of data collection are credited to case study approaches for ensuring the validity of findings.

Kelly, Lungwangwa and Sililo's (1998) levels of factors affecting access to education informed the structure of my data collection instruments, data analysis and presentation of findings. These are: the socioeconomic factors, factors at the level of the education system, factors at the level of the school and factors at the community or family level. I added an additional level of factors – legislative and policy factors promoting or hindering access. The factors at each level of Kelly, Lungwangwa and Sililo's (1998) framework are interrelated. Although the South African Schools Act (1996), National Education Policy Framework and other policies provide a framework for implementation and realization of all children's access to schooling, the practical implementation of these and other policies at the school level is influenced by interpretation and application of policy by school administrators and refugee parents.

Among the findings, the following factors are most influential in relation to refugee children accessing education in Cape Town. Refugees' ability or inability to earn an income was a dominant theme affecting children's access to schools. Department of Basic Education policies and legislative provisions are the asset in giving refugee children access to education. This policy and legal framework endorses universal access even where refugees may not afford fees or have the required identification documents for their children. However, refugee parents lack knowledge of their rights to education and as such, do not exercise their children's rights to education. Refugee parents are sometimes fearful and do not know how to work with their rights. The progressive education policy and legislative framework does not always provide refugees with full access to education, particularly poor refugees.

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Chapter 1

Introduction

1.1 Background to the problem

War has devastating effects on the social fabric of the societies it ravishes. Millions have been displaced and many of the affected are children. Instead of a childhood without tragedy and disruptions to schooling, children experience multiple traumas, sometimes losing their closest family members. Fleeing from conflict and imminent threats of persecution disrupt children's development by breaking the continuity of the socialization process and preventing natural learning of information and skills (Alhearn and Athey, 1991: 1; Retamal and Aedo-Richmond, 1998:2). Continuation of primary education is critical in assisting with the adaptation of refugee children to their host countries' communities. The *Revised Guidelines for Educational Assistance to Refugees* (1995: Section 1) accentuate the role of education in promoting refugee children's personal and social development as well as, "meeting their psychosocial needs after trauma". Despite the importance of education to all children, including refugee children, less than half of the child population in least developed countries is enrolled in primary education (Edmonds and Fernekes, 1996). Graça Machel summed up failure to ensure universal access to education for children in these words, "Our promises to children throughout the world remain unfulfilled" (Machel, 2000: 4).

Children's rights are protected in general human rights treaties and "child-specific" human rights treaties (Viljoen, 2007). International conventions including the Universal Declaration of Human Rights (UDHR, 1948), African Charter on Human Rights, African Charter on the Rights and Welfare of the Child (1990), International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), and the Convention on the Rights of the Child (CRC, 1989) outline the rights of all children. These instruments stipulate that all children, whether citizens or non-citizens of a state, have a right to education. The right to education is recognised across the globe and is protected by constitutions of more than 140 countries (Borak-Erez and Gross, 2007). Furthermore, education is an indicator of the basic quality of life in a country (Edmonds and Fernekes, 1996). It encompasses three basic rights to receive education, choose education and equal education. Realisation of the right to education requires an effort by the state to make education available and accessible (Borak-Erez and Gross, 2007).

Refugee children are protected by both international instruments on child rights, including the Convention on the Rights of the Child (1989) and conventions for refugees. These are the Convention Relating to the Status of Refugees (1951), the 1967 Protocol Relating to the Status of Refugees and the OAU Convention Governing Specific Aspects of Refugee Problems in Africa (1969). Although not explicitly, these instruments also state that refugee children have a right to education. The Refugee Act (1998) states that refugee children have a right to the same basic education awarded to South African children.

South Africa is a signatory of the 1951 Convention, its 1967 Protocol and the OAU Convention (1967). The Refugee Act (1998) outlines the rights and obligations of refugees in tandem with these international instruments' provisions. The Refugee Act (1998) and the South African Constitution (1996) stipulate that child refugees have a right to education. Although international instruments stress all children's rights to "free" education, a survey of the literature revealed that education in South Africa at every level (primary, secondary or tertiary) is not entirely free (Landau, 2006; Quint, 1999; CoRMSA Report, 2009; 2010). Thus, refugees who intend to send their children to school in South Africa must be able to afford it. The requirement to pay fees is a stumbling block identified in the literature and a theme that emerged in my interactions with organisations working with refugees and refugee parents in Cape Town. Other inhibitors to access include language barriers, since many refugees are from Francophone countries such as the Democratic Republic of Congo or other African countries where English is not taught (Quint, 2009).

A survey in Cape Town conducted by Lara Quint (2009: 10) revealed that only two out of twenty-five refugees could send their children to school. Investigations by the Consortium for Refugee and Migrants in South Africa found that 24 percent of asylum seeker children were not enrolled in the public education system (CoRMSA Report, 2010). Refugees in South Africa have expressed that they do not enjoy many of the rights provided by the Refugee Act (1998). NGOs and refugee parents in Cape Town lamented the negative repercussions of the slow asylum documentation process on refugees' ability to access banking services and apply for jobs in order to earn a living in South Africa. Inevitably, without jobs refugees are often unable to send their children to school or provide them with necessary school resources including stationary and books.

1.2. Intention of the study

This thesis aimed to assess the extent to which child refugees are able to access education in Cape Town, in accordance with international and local legal instruments, by investigating the possible challenges which hinder this access, and factors which have promoted access; enabling children to proceed to other levels of education in South Africa or their home countries.

1.3 Value of the study

Organisations working with migrant populations such as the Consortium for Refugees and Migrants in South Africa (CoRMSA) acknowledge that national studies have not been conducted to assess child refugee access to education (CoRMSA Report, 2010). However, smaller scale studies have been carried out and contribute to policy and other discussions. This study is also small-scale but relevant because it sheds light on access to education for child refugees in Cape Town, highlighting similar challenges experienced in other parts of South Africa. Furthermore, this thesis also looks at factors which have promoted access for child refugees and how they can be reinforced. It is noted that although the Department of Home Affairs primarily deals with refugees as the custodian of the Refugee Policy, there is need for coordination with the Department of Basic Education.

1.4 Central Research Question and Sub-Research Questions

Using a Rights-Based Approach, this thesis addressed the following central research question: *What factors promote and/or hinder access to education for child refugees in Cape Town?*

The central research question was divided into the following two sub-questions, which guided my field research:

- i.) *How and why have some refugee parents/guardians succeeded in sending their children to school?*
- ii.) *What are the reasons why some refugee parents/guardians have failed to send their children to school?*

1.5 Methodology

My research project used a qualitative case study approach to answer the central research question. Yin (1984: 19-20) points out that case studies are relevant in “describing contemporary events”, especially when combined with primary and secondary documents. My thesis sought to describe contemporary events in the form of factors affecting child refugee access to education in Cape Town today, using data collected directly from a cross-section of respondents (refugees, school officials and NGOs) and both primary (government policy documents such as the Refugee Policy of 1998) and secondary documents (press releases from the Department of Basic Education, Department of Home Affairs and relevant media articles).

Qualitative techniques are widely used in education research to facilitate a process of resolving problems and sometimes with no form of application (Charles, 1995:20). I hope my work will contribute towards improving policy and implementation of policy to improve access to education for child refugees and South African children facing similar challenges.

I intended to use a mixed methods approach incorporating both quantitative and qualitative techniques; an approach commonly used in education research (Charles, 1995: 21). I had difficulties accessing Southern African Migration Project (SAMP) data. I recognize that a mixed methods approach, especially in case study research would have been most appropriate. My research project will contribute towards knowledge on the subject of child refugee access to education, which is in need of more research.

Semi-structured in-depth interviews were conducted with refugee parents, NGO representatives and school officials. I also conducted two focus group sessions with refugee parents. I used stratified purposive sampling to select respondents based on Kelly and Lungwangwa and Sililo’s (1998) levels of factors affecting children’s school attendance. Kelly, Lungwangwa and Sililo’s (1998) identify these levels as the socio-economic level, level of the education system, school level and family/community level. Two additional sources of data were provided by CoRMSA and the Deputy-Principal of a school in Cape Town. These were the 2010 CoRMSA Report and media articles.

Given the nature of the data that I gathered, my analysis was informed by I used Miles and Huberman’s (1994) first and second-level coding to analyse data (documents and transcripts). Miles and Huberman’s approach to qualitative data analysis was most suitable because it allows the researcher to approach the data with research questions and coding categories in mind. My categories were formulated according to Kelly, Lungwangwa and Sililo’s (1998) levels of factors affecting children’s school attendance.

A detailed Methodology chapter will follow.

1.6 Thesis outline

Hereafter, the thesis unfolds as follows:

- Chapter 2 situates a refugee child in the South African education context and other African contexts where child refugees access education in urban centres.
- Chapter 3 provides a detailed conceptualisation of the research question by defining the key concepts: refugee children, the right of access to education, and the Rights Based Approach. These definitions set parameters for my research.
- Chapter 4 describes the methodology.
- Chapter 5 presents and discusses the key findings.
- Chapter 6 concludes the study and makes a number of recommendations.

Chapter 2

A child refugee in the South African education context

At this juncture, I would like to emphasize that the situation of child refugees in South Africa is not unique both within the Republic and other parts of Africa. This chapter briefly describes the context in which refugees and their families find themselves when they move to South Africa. This is important because challenges and opportunities to access the education system are presented to both South Africans and refugees. For comparative purposes, I will also present the situation of refugees in other contexts. Kenya and Uganda provide useful examples of factors affecting child refugee access to schools in Africa.

2.1 A child refugee in South Africa

The South African education system is haunted by apartheid's indelible mark of inequality on the education system (Davis, 2007: 194; Fataar, 1997: 338-339; Fiske and Ladd, 2004). Government has been confronted with the challenge of reversing the ills of the apartheid education system or at least creating better opportunities for previously marginalized population groups.

The destructive impact of the Bantu Education system wrought damage that will take decades if not generations to repair. (Fiske and Ladd, 2004: 52)

Residential segregation and poverty amongst black South Africans; inadequate resources and low-quality instruction for black children are problems affecting access to education that persist (Fiske and Ladd, 2004: 52). As much as child refugees and their families also face situations of poverty and do not have enough resources, they also benefit from a commitment by the South African government to open the doors of learning and to make education free, compulsory, universal and equal for all children (The Freedom Charter, 1995 in Fataar, 1997: 343).

The South African government has taken considerable steps towards achieving an equitable education system. Many of these steps are enshrined in South Africa's progressive Constitution (1996). A range of socioeconomic rights are included encompassing principles of "non-racialism, non-sexism, and equality of access" (Asmal and James, 2001: 186; Fataar, 1997: 332; Gilmour, 2001). Of note, the Constitution stipulates the right of all children to free primary education; although in practice education is not free (Badcock-Walters, 2005: 8; Fisk and Ladd, 2004: 2). Section 29 of the Constitution stipulates that:

Everyone has the right to a basic education, including adult basic education, and to further education, which the state, through reasonable measures, must make progressively available and accessible. (RSA, Section 29 of the South African Constitution)

The right to a basic education is for all people residing in the country, regardless of nationality or citizenship status (Asmal and James, 2001: 188; Fiske and Ladd, 2004: 61; Quint, 1999: 1). In order to ensure universal access, a Framework for Education and Training was issued in 1994. The Framework introduced “ten free years of compulsory education of high quality especially amongst disadvantaged townships, farms, villages, informal settlements and rural areas” (ANC, 1994). A single national system replaced the 15 racially defined education systems and a single ministry was made responsible for formulating policy, setting standards and allocating necessary financial resources to schools (Fiske and Ladd, 2004). In 2010, a Cabinet Lekogtla announced plans to enrol over 200,000 children in schools by 2014 by introducing more non-fee schools and school-feeding schemes. The Department of Basic Education continues to take steps to promote access.

Despite this effort by the state, South Africa has a dual education system similar to that of Britain. In Britain and South Africa in most cases better schools serve a minority and poor quality schools serve the majority (Fataar, 1997: 335-36). Asmal and James (2001: 186) contend that transformation of the education system has been set back by its reliance on “segregated, unequal and inefficient bureaucracies”.

Evidence of this lies in the fact that racial groups remain segregated across South African suburbs and the best schools are mostly located in formerly white residential areas (Fiske and Ladd, 2004: 55). These wealthier schools are able to attract and retain good teachers and finance infrastructure (Asmal and James, 2001: 188). Fataar (1997: 335) points out that most black children continue to attend poor quality schools, whilst others now attend Model C, or former white schools (Maise, 2004: 94). Lack of funding for educational reconstruction in disadvantaged schools hinders children’s access (Fataar, 1997: 332).

Fataar (1997: 332) adds that access is also hindered by “quality of schooling” because where it is below required levels; it contributes to existing forms of inequality. Arguably, quantitative expansion does not necessarily mean quality education (Fataar, 1997: 332). In several instances, previously disadvantaged schools, which tend to be historically black, have had to close due to a shortage of qualified teachers (Asmal and James, 2001: 188; Fiske and Ladd, 2004: 55). In the same vein, Preston (1991: 61) argues that in most cases, quality of education varies across socioeconomic groups and how they are geographically distributed. Asmal and James (2001; 188) stress that although the

democracy has equalized spending on education, it has not “redistributed unequal assets built up under apartheid”.

Because the SASA (1996) enables schools to set fees in order to supplement public funding, children from poor families of low social and economic status often struggle to gain access to schools (Lemon, 2008: 109; Preston, 1991: 61). Refugee families often fall into low social and economic status, being foreigners and often unable to find gainful employment. Fataar (1997: 331) argues that “access to education policies should be based on a notion of educational development linked to the overall socioeconomic development of society.”

As Badcock-Walters (2005: 8) rightly put it, “ensuring access to education is a complex issue.” The author lists other factors hampering child access to primary education in South Africa. These are the existence of competing household demands and priorities; lack of parental education and literacy; poverty and a lack of school uniforms and required text books (Badcock-Walters, 2005: 9).

In response to these challenges to access, Fataar (1997: 334) posits the need for a long-term strategy promoting universal access, due to apparent financial constraints and the history of schooling in South Africa. The author compares South Africa’s education system with that of Britain, noting that in Britain access to schooling was constructed under a “broad social welfare consensus” (Silver, 1980 in Fataar, 1997: 336). Fataar’s conclusion is that choices around children accessing schools should consider “affordability and implementation.” I would assume affordability refers to both the state’s ability to drive this process, and the ability of parents to pay required fees. Additionally, Fataar (1997: 338) stresses that access should be conceptualized within “the constraints of the context of transition”.

In 2004, there were over 5 million refugee children in Africa and a significant number now reside in South Africa with or without their parents (Badcock-Walters, 2005: 62; Handmaker, 1999). There is no official figure of how many refugee children are in South Africa. Poor immigrants that have moved to the “rainbow nation” have also experienced the same inequalities and challenges faced by South Africans. The South African School Act 84 of 1996 declares that, “a public school must admit learners and serve their educational requirements without unfairly discriminating in any way,” and Article 27 (G) of the Refugee Act states that, “Refugees as well as refugee children are entitled to the same basic health services and basic primary education, which the inhabitants of the Republic receive from time to time,” (in Landau, 2006: 319). Despite this legislation which requires children up to the age of fifteen years to attend school, many refugees fail to send their children to school (Stone and Winterstein, 2003 in Landau, 2006).

Quint (2009) notes with deep concern that only two out of 25 refugee women, who participated in a study carried out in Cape Town in 2006, had children in school. Landau points out that compared to South Africans, a smaller percentage of refugees have children (38 percent compared to 66.3 percent of South Africans), and those who do often struggle to raise enough funds to send their children to school (2006: 320). It has been alleged that some schools charge refugees higher fees than locals and even where fee exemptions are available, refugee children are denied access (Quint, 2009; Ntabazalila, 2002 in Tanga, 2009: 29). Tanga (2009: 28) comments on the lack of fees amongst refugee parents. Instead of being charged higher fees, he contends that there is a lack of information amongst parents and school officials about school fees exemptions also available to child refugees (Tanga, 2009: 28).

Handmaker and Parsley (2001: 44) and Landau (2006: 318) postulate that another barrier to access is the asylum-seeking process in South Africa, which leaves refugees in a situation of, "enforced destitution without an ability to survive." Xenophobic tendencies also limit child refugee access to primary education since xenophobic adults teach their children to resist diversity (Handmaker and Parsley, 2001: 44).

Tanga (2009: 28) adds that schools often turn away refugee children due to language difficulties. Other reasons for turning away refugee children include schools' refusals to accept letters from churches or other faith-based/charity organisations to support applications where there is no proof of residence (Tanga, 2009: 28). Unaccompanied children have difficulties accessing the education system because they do not have parents or guardians (Tanga, 2009: 28).

Landau cites a 2000 study on Somali refugee children of school-going age in South Africa, which found that many of them did not attend school (2006: 320). Similar trends were found amongst other nationalities of refugees.

Of note in this chapter, is the recurring theme around availability of fees for refugee parents, language barriers amongst refugee children and the role of school officials in either promoting or hindering access. It is apparent that there are gaps between South African legislation supporting universal access to education for children and implementation of these policies. Barriers to schooling affecting South African children from disadvantaged socioeconomic backgrounds also affect refugee children and their families which are in a similar position.

2.2. Access to education for child refugees in other contexts

Preston (1991: 63-64) notes that most research on access to schooling for child refugees has been done in countries of long-term settlement such as the United States of America, Canada and Australia. In these contexts, there have been interesting findings on access to education for refugees. For example, across these countries language is a principal theme influencing access. Refugees' competencies in languages of instruction or of the communities they reside affect their performance and integration into communities (Preston, 1991: 64). In Minnesota, Baizerman and Hendricks (1987) found that education was perceived to be a unifying factor for Southeast Asian youths of largely Vietnamese and Cambodian descent. In the United States, studies amongst Hmong refugees revealed that socioeconomic status of refugee families before exile is linked to their subsequent performance and careers in countries of settlement (Kan and Lin, 1986 in Walker 1988). Contrary to the situation in USA and Canada where refugees have access to education, the British system places restrictions on refugee access to education and this has had negative implications (Bull, 1989). It will be interesting to compare this with the situation of refugees in South Africa.

In Africa, refugee education research has mostly been limited to camp settlement structures (Dryden-Peterson, 2003: 2). Factors affecting access include prohibitive costs of urban education; lack of qualified teachers in the rural setting; lack of English proficiency as refugees are mostly non-English speakers; and a lack of social stability for refugee children to integrate with local school children (Dryden-Peterson, 2003: 2). Dryden-Peterson (2003: 3) identifies these factors in an assessment of four settings of refugee access to education. These are primary schools in refugee settlements attended by refugees and some nationals; primary schools in refugee settlements attended by nationals and some refugees; government-aided schools in urban centres (Kampala) and self-help schools in urban centres (Kampala).

Kampala is the largest urban centre in Uganda with over 80 government-aided schools and 800 private schools (Dryden-Peterson, 2003: 19). Dryden-Peterson (2003) takes the case of Katwe Primary School in Kengale to examine challenges to access for refugee children. There are 20 refugee children at the school of 620 students. The refugee children are primarily from Ethiopia, Somalia and Congo. Government subsidizes refugees and their parents only pay the basic KShilling 10,400 fee per term. Parents who cannot afford are under pressure to pay because their children are forced to leave school if they do not. The school remains favourable to refugees because of its close proximity to their residential areas and government assistance. Additionally, refugees choose this school because it provides good English classes which helps to improve their children's learning

experience. In this context, UNHCR also provides some urban refugees with fees for their children to attend school. A headmaster at another school pointed out said:

The first condition of entry to school is to have money; a condition that refugees cannot afford because many of them are too poor. They even pay for food with great difficulty. The second problem is language. The third is frustration with changes. (KUREC headmaster quoted in Dryden-Petersen, 2003: 25)

Another East African country, Kenya has hosted refugees for the last 40 years (Karanja, 2010: 147). Although refugees are placed in refugee camps, limited “humanitarian assistance and educational opportunities” push refugees to leave for camps for urban centres (Karanja, 2010: 147). Karanja (2010) writes about the situation of Sudanese refugees in Kenya’s cities, particularly access to schools for their children. The author’s findings reveal that primary education remains inaccessible for a number of reasons. Firstly, refugee parents are required to produce UNHCR registration documents and birth certificates for their children. Of note, Sudanese refugee children born in Kenya often do not have birth certificates (Karanja, 2010: 147). Secondly, discrimination and extortion are other barriers to access. Despite the introduction of free education for refugee children in 2003, many refugees are not aware of this provision. A challenge that arises from free education is an increase of locals in schools too, which limits the number of places for foreigners as most school administrators “deny refugees access to save places for Kenyan children” (Karanja, 2010: 147). Finally, refugees struggle to raise enough money to support their children’s education. Financial needs include school materials such as notebooks, text books and uniforms (Karanja, 2010: 147).

As already mentioned, child refugees are protected by legislation for children and refugees. South Africa’s Constitution includes exclusive sections on child rights (Viljoen, 2002: 202). With regards to refugees, South Africa’s Constitution has the Refugee Act (1998), which replicates the OAU 1969 definition of a refugee (Klinck, 2009: 653). Although her neighbours (Zimbabwe, Botswana) opt to place refugees in camps where assistance is provided, South Africa is one of few countries to allow refugees to settle in urban areas (Landau, 2006). The Refugee Act (1998) reiterates that like South African citizens, refugees and their children have a right to education (De La Hunt, 1999). Volio (1979: 19-22) identified, “the child’s right to education as critical for the preservation of freedom and happiness ... and (a weapon) in the crusade against ignorance; to establish and improve the law for educating the common people,” (Rabin, 2007).

Chapter 3

Conceptualisation of the research question

My central research question was: *What factors promote and/or hinder access to education for child refugees in Cape Town?* The key concepts are:

- Child refugees
- The right to education
- South Africa's Basic Education System
- The Rights Based Approach to Education

3.1 What is a child refugee?

Around the world a significant number of refugees are children (Article 22, CRC). It is essential to begin with definitions of a refugee and of a child. Thereafter, the rights awarded to a child who is a refugee will be outlined with particular emphasis on the right to education.

3.1.1 International refugee definitions

The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol define a refugee as "someone with a well-founded fear of persecution because of their race, religion, nationality, membership in a particular social group or political opinion; living outside their country of origin; and unable or unwilling to avail themselves to the protection of that country, or return there for fear of persecution." The OAU Convention (1969) provides a more elaborate definition which describes a refugee as, "Any person compelled to leave his/her country owing to external aggression, occupation, foreign domination, or events seriously disturbing public order in either part or whole of his country of origin or nationality."

Blavo (1999: 12) provides a cohesive definition of a refugee, noting that this, "is a person who flees into a neighbouring country for refuge in the face of persecution or a major conflict such as civil war, who seeks the protection of the government of the country in which he has sought refuge and no longer has the protection of his own government." It should be stressed that child refugees are awarded the same rights as adult refugees, however, they are also accorded, "special rights due to their vulnerability and their roles as the inheritors of the future," alongside other children (CRC, 1989).

3.1.2 International definitions of a child

Article 1 of the Convention on the Rights of the Child (CRC) defines “the child” as, “anyone who has not yet reached the age of 18 who has also not been declared an adult in a nation’s laws,” (Joly, 1992; Edmunds and Fernekes, 1996).

3.1.3 Definition of a child refugee

From the aforementioned definitions of a refugee and a child, it follows that a child refugee is, **“someone below the age of 18 years with a well-founded fear of persecution because of their race, religion, nationality, membership in a particular social group or political opinion; living outside their country of origin; and unable or unwilling to avail themselves to the protection of that country, or return there for fear of persecution.”**

It has been noted that there are other types of migrants in South Africa including “economic refugees” and illegal migrants. According to international instruments, children of economic refugees or illegal immigrants should access education because “all” children possess this right. However, there is an ongoing debate about whether or not “economic refugees” should be classified as refugees at all. This group of migrants may experience similar and/or other challenges to accessing education as refugees, but exploring these issues goes beyond the scope of my research which looks primarily at the children of people classified as refugees, or children who have fled their countries for fear of persecution or conflict.

Like the international child and refugee instruments already discussed, Section 28 of the Constitution defines a child as, “a person under the age of 18 years.” South Africa and other African countries signed the Mombasa Declaration (2004) to promote child rights; in particular, “the unique position, which the girl and boy child occupies in African society and to honour their right to free primary education even in times of crisis and post-conflict,” (Williams, 2006: 57).

3.2 Definition of the right to education

Article 13 of the ICESCR (1966) defines the right to education as, “The right of **access** to the knowledge and training which are necessary to full development as an individual and as a citizen.” In the European context, the right to education has been defined as, “a right of access to educational institutions as they exist ... at a given time and the right to draw benefit from the education received, which means the right to obtain official recognition of the studies completed.” These definitions cover the right to receive education as described by Borak-Erez and Aeyal (2007) and Brand et al (2002).

The right to education is hardly recognised as a human right, but Cooman in Brand et al (2002: 159) points out that, “it has a solid basis in international law on human rights.” The scholar notes that the right to education has been stipulated in several universal and regional human rights instruments; some of which have been mentioned in this dissertation. References include Article 26 of the Universal Declaration of Human Rights, the UNESCO Convention against Discrimination in Education, the European Convention on Human Rights (Art. 2 of the first Protocol) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, Art. 13 and 14, 1966; Unicef, 2007: 8).

Cooman classifies the right to education as an “empowerment right” (Brand et al, 2002: 16). This right provides, “the individual with control over the course of his or her life, and in particular, control over ... the state,” (Donnelly and Howard, 1998). Brand describes the right to education as “the key to social action in defence of rights,” (2002: 161). Arguably, an individual cannot exercise other civil, political, economic or social rights without education (Brand et al, 2002: 161).

This empowerment right comprises three basic rights that are not easily distinguishable (Rabin in Borak-Erez and Aeyal, 2007: 267). These are the right to receive education; the right to choose a stream of education and the right to equal education. The right to receive education is the individual’s right to receive education services that are funded by the state. It encompasses primary, secondary and tertiary or higher education (Borak-Erez and Aeyal, 2007 and Brand et al, 2002: 162). Rabin (2007) accentuates reasons for the right to receive education, which include the assumption that education provides the foundation for individual autonomy, liberty and human dignity. Additionally, it is assumed that education is essential to the realisation of basic civil and political rights and it benefits both the individual and society (Rabin in Borak-Erez and Aeyal, 2007: 267-269).

The right to choose education implies the parental right to choose a school or educational institution within the public system (Borak-Erez and Aeyal, 2007 and Brand et al, 2002: 162). The right to equal education is drawn from the general principle of equality, meaning all people should have equal opportunities to access education (Rabin in Borak-Erez and Aeyal, 2007: 274-277).

The right to receive education has four interrelated and essential features (ICESCR, Art. 13, 1966). These are:

1. *Availability: Functioning educational institutions and programmes have to be available in sufficient quantity in a state.*
2. *Accessibility: Educational institutions and programmes have to be accessible to everyone, without discrimination; this implies both physical and economic accessibility.*

3. *Acceptability: The form and substance of education, including curricula and teaching methods, have to be relevant, culturally appropriate and of good quality.*
4. *Adaptability: Education has to be flexible so it can adapt to the needs of changing societies and communities, and respond to the needs of students within their specific social and cultural context.*

Bizimana (2007: 24) elaborates that availability requires the state to ensure that education is free and compulsory. He observes that acceptability is concerned with the substance of education, of note, teaching methods and curricula. Adaptability entails flexibility of the right to education to suit the changing needs of societies and ability to respond to the needs of students (Bizimana, 2007: 26). Accessibility will be discussed in more detail in the following section.

The CRC (1989) also emphasizes the right of children to education. Its provisions on educational rights of children complement those of the UDHR and ICESCR. Article 28.1a (CRC, 1989) stresses the need for progressive realization of the right to primary education. Article 32.1 (CRC, 1989) provides for protective measures by the state against economic exploitation of children, which might impede their education.

Article 22 of the CRC (1989) states that refugee children must receive the same treatment as nationals of a country in accessing primary education (1989 Ministerial Order No.530/166 in Bizimana, 2007). The focus of this paper is on access to education for child refugees. Therefore it is necessary to unpack this facet of the right to education.

3.2.1 The right to access to education

Central to the right to education is the assertion that individuals have a right to access available education, especially public educational institutions on a non-discriminatory basis (ICESCR, Art. 13 and 14, 1966; CRC, 1989). International law and human rights do not provide a definition for "primary education," but guidelines for using the concept have been developed within a framework of international organisations such as the United Nations Education, Science and Cultural Organisation (UNESCO, 1996). A core element of primary education is that no one has the authority to withhold primary education from a child (Brand et al, 2002: 169). The ICESCR (1966) stipulates that primary education shall be compulsory and free from the age of six or seven. Primary education is fundamental for the development of a person's abilities (Brand et al, 2002: 168).

Bizimana (2007: 24) describes accessibility to education as three-dimensional. Its dimensions are non-discrimination, physical accessibility and economic accessibility. The first dimension means that

education must be accessible to all, especially the most vulnerable groups without discrimination. The second dimension stresses that education has to be within safe and reasonable distance from the child's home. Distance may be geographical or through modern technology. Finally, the third dimension stipulates the need for education to be affordable to all. "Primary education should be free to all children and state parties are required to systematically introduce free education for all," (Bizimana, 2007: 24).

Accessibility to free primary education is affected by direct and indirect costs such as school fees, text books and supplies, extra lessons, meals, school transport, school uniforms and medical expenses (Brand et al, 2002: 171). Badcock-Walters (2005: 9) lists additional factors affecting access to education. These are competing household demands; demoralised teachers at the schools; lack of parental education and literacy; loss of or separation of children from biological parents and poverty.

Williams (2006: 18) highlights that even where education facilities are evenly distributed, "some social groups may have difficulty in gaining access to the education system." This may be a result of factors already mentioned, or distances between family homes and schools; poverty or inability to pay fees (Williams, 2006). Williams also raises the argument that children orphaned by HIV/AIDS or other disease and possibly war, face "special problems," (2006: 18).

3.3 Child refugees and the right to education

Child refugees often lack educational opportunities and come from different socioeconomic and educational backgrounds (Alhearn and Athey, 1991: 46). The 1951 Refugee Convention stresses that refugee children have a right to public education and, "Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary (primary) education." This places the onus on governments to ensure that refugee children are able to access schools.

Education is important for all children but is significant to refugee children since it, "maintains development for the future generation of human resources needed for the reconstruction of their countries of origin," (Retamal and Aedo-Richmond, 1998: 3). In addition, the authors reiterate that education accelerates refugee children's personal and social development, whilst helping them to deal with trauma (Retamal and Aedo-Richmond, 1998: 295).

The investment in primary education for Mozambican refugees in Zimbabwe and Malawi has meant that there is a higher probability of employment and income generation for returning children in a society where basic educational skills remain scarce (World Bank, 1985 in Retamal and Aedo-

Richmond, 1998:3). This form of education is labelled “education for repatriation” and has also been practiced amongst Rwandese refugees in Tanzania (Retamal and Aedo-Richmond, 1998: 3). In the long term it is clear that educating refugee children benefits not only the child, but the host country and country of origin of the refugee because they move from being dependants to empowered individuals with the ability to participate in the development of the countries they reside.

The United Nations High Commission for Refugees (UNHCR) promotes access to education by ensuring that, “the ladder of education is open to refugee children from entry in primary school to school leaving exams at secondary level,” (Retamal and Aedo-Richmond, 1998: 291). The Revised Guidelines for Educational Assistance to Refugees (1995) state that, “where refugees are mixed among local populations, their children can be accommodated in local schools.” It is the role of UNHCR and other agencies to assist schools with the absorption process (Retamal and Aedo-Richmond, 1998: 292).

Despite support from UNHCR and obligations of states to ensure child refugee access to education, Kelley (2007: 407) notes that refugees are often treated as illegal immigrants. Unregistered refugees are frequently denied assistance and children without birth certificates are not able to gain legal recognition. Due to shortages of basic necessities, refugee children are not able to attend school. Girls are allegedly greatly affected, since their families urge them to work as domestic workers or to marry early (Kelley, 2007: 415). Bizimana (2007: 25) echoes that young girls fail to access education when they get pregnant. The author adds that child refugees are sometimes denied an education when host governments are not able to provide education for their own children or when lessons are provided in a foreign language not understood by the children. For example, in Burundi, school fees, basic necessities such as health care and food, and school costs (uniforms) prevent refugee children from attending school (Bizimana, 2007: 27).

3.4 South Africa’s Basic Education System

I have included a section on South Africa’s school system to elaborate on what I refer to in this thesis when discussing access to education. Children are entitled to access education and in South Africa “basic education” refers to four levels spanned over thirteen years (RSA - Department of Basic Education website, accessed on 19.12.11). The four levels are:

- Foundation Phase (Grades R -3)
- Intermediate Phase (Grades 4-6)
- Senior Phase (Grades 7-9)
- Further Education and Training (FET), (Grades 10-12)

(RSA - Department of Basic Education website, accessed on 19.12.11)

The South African Schools Act (RSA, 1996) stipulates that education is compulsory for all children between the ages of seven and fifteen, or Grades one and nine. Refugee children are below the age of 18 years and would have to adapt to South Africa's Basic Education system. Thus, my thesis looks at access to both primary and secondary schools in Cape Town. It emerged during interviews that many refugee children have to enrol in grades that do not match their age group because of differences between their country of origin's education system and the South African Basic Education system.

3.5 The Rights-Based Approach to Education

It is necessary in this section to unpack the Rights-Based Approach (RBA). Refugees rights and in this study, child refugee rights to education, are the focus of human rights approaches. There are various explanations of how and when the RBA emerged. Some scholars mark the birth of human rights and RBA's as far back as the end of Nazi rule in Germany, post-World War II (Beyrer and Kass, 2002: 246). Others look to the end of the Cold War as a starting point (Cornwall and Nyamu-Musembi, 2006: 1423; 2001: 1005) and yet others to the advent of "rights in international development" as a result of tensions created by neoliberalism and political transformation in developing countries (Hickey and Mitlin, 2009: 7).

One of the most notable references to the need to respect human dignity occurred even earlier than the First and Second World Wars during the 1859 Battle of Solferino in Italy. A Swiss national, Henry Dunant, was horrified at atrocities committed during the battle and championed the establishment of the International Committee of the Red Cross (ICRC, 2011). His efforts led to the drafting and ratification of the 1st Geneva Convention in 1863 by twelve nations. The Convention made it compulsory for armies to care for the wounded and sick (ICRC, 2011).

Just as there are different points of reference for the emergence of RBA's, there is not a single RBA. Rather there are plural rights-based approaches (Cornwall and Nyamu-Musembi, 2006: 1416). Hamm (2001: 1006) states that the RBA refers to, "all human rights and emphasizes the interrelation and interdependence of human rights, paying close attention to economic and social rights as a concern of development policy," (Cornwall and Nyamu-Musembi, 2006: 1421). RBA's set realization of economic, social and cultural rights or second generation rights as an objective of development (Hamm, 2001: 1006). These include people's access to basic services such as education and healthcare.

RBA's introduced a number of benefits including "a consensual frame for development policy" and "a universal moral commitment to human rights" since most countries have ratified prominent human rights treaties (Hamm, 2001: 1013). This means that international human rights law provides a framework for all states as most human rights law is considered customary international law (Hamm, 2001: 1013). A good example of customary international human rights law is the Convention on the Rights of the Child (1989) which has been ratified by most states and is applied in states whether they have ratified it or not (Hamm, 2001: 1013). The Convention on the Rights of the Child is relevant to this study, because it outlines the rights of all children including child refugees.

In light of this emphasis on human rights, Cornwall and Nyamu-Musembi (2006: 1417) state that RBA's prioritize rights violations and pave the way for government and other organisations' accountability to citizens (Ferguson, 1999). Despite the plurality of RBA's, there is a broad consensus that "governments are the principal duty-bearers with respect to human rights of people living within their jurisdiction," (Cornwall and Nyamu-Musembi, 2006: 1417). This consensus is in tandem with previous observations that realizing children's rights to education is the obligation of governments. Monitoring and accountability are not limited to governments alone, but a number of actors including international organisations, the donor community, local non-governmental organizations and community-based organisations make contributions (Cornwall and Nyamu-Musembi, 2006: 1417). The importance of non-governmental organisations is emphasized in this study as they play an important role in promoting child refugee access to education in South Africa. This becomes apparent when I present my findings.

Although rights may be legalised in constitutions and international treaties, their realization is complicated by different municipal systems and policies governing access (Cornwall and Nyamu-Musembi, 2006). For instance, access to healthcare may be limited to medical insurance holders, or only citizens of a particular country. Furthermore, supporting human rights is limited by the fact that there are limited resources at the disposal of any government or organisation to do so (Farrington, 2001).

The United Nations Children's Fund (Unicef) elaborates on human rights approaches to education, which is particularly relevant to this thesis. According to Unicef, the goal of a human rights approach to education is, "to assure every child a quality education that respects and promotes her and his right to dignity and optimum development' (Unicef, 2007: 1). Education for All goals, although stated in a number of conventions and treaties, were established at the 2000 World Education Forum in Dakar, Senegal (Unicef, 2007). Additionally, the Millennium Development Goals (MDGs) committed to achieve universal access to free, quality and compulsory primary education by 2015.

Governments committed to these goals at the UN General Assembly Special Session on Children in 2002 (Unicef, 2007).

In 2004, UNESCO statistics indicated that 77 million children were still not enrolled in school (Unicef, 2007: 2). Estimates between 2005 and 2006 suggested that over 90 million children were not attending school. Recognizing the need to reduce this high number of children out of school, international organisations have prioritized RBA's that, "focus on inalienable human rights of reach individual, as expressed in UN instruments, and on governments' obligation to fulfil, respect and protect those internationally defined rights," which include the right to education (Unicef, 2007: 3).

The human rights approach which prioritizes universal access to primary education is the underlying theme which weaves a thread throughout this thesis.

University of Cape Town

Chapter 4

Methodology

4.1 Research design

This study used a qualitative case study design. Research designs are a “roadmap” for one’s research outlining relevant data, sources of data and how to analyse the results (Philliber, Schwals and Samsloss, 1980 in Yin, 2009: 26). Although Seale (2004), Yin (1984) and others provide definitions of case studies, Merriam (1991: 1) argues that there is little agreement about what “case studies” are. Despite this observation, Merriam (1991: 1) posits that qualitative case studies are, “an ideal design for understanding and interpreting observations of educational phenomena.” This makes the case study design of particular relevance in identifying factors which enable refugee parents to send their children to school and factors that hinder them from doing so. Merriam (1991: 32) credits case study designs as useful when investigating “complex social units” and “informing policy”. In my research, social units include refugee families and child education and refugee policies are my focus. Despite these strengths, Merriam (1991: 33) notes that case study designs may simplify or exaggerate a situation leading to inaccurate conclusions.

Single case studies are able to provide reliable information about a broader set and also provide, “closeness to real-life situations and a wealth of details,” (Seale, 2004: 422). Yin (1984) elaborates that “how and why” questions are appropriate for case studies. One of my sub-research questions asks how and why some parents manage to send their children to school and other parents do not. Yin (1984) adds that case study research is particularly relevant where it is difficult to separate subjects from their contexts. It is difficult to separate problems and opportunities related to child refugee access to primary education from specific contexts. Issues that arise may only be relevant to some contexts and not others. Qualitative case studies are relevant because they assist researchers to explore single contexts (Merriam, 1991: 10). In addition, case studies assist the researcher to develop a “comprehensive understanding of groups under study” (Becker, 1968: 233). My study used multiple methods of data collection which are also a hallmark of the case study approach (Yin, 1984).

I selected Cape Town as my case study because it is one of the cities in South Africa with a higher number of migrants, particularly refugees (Palmary, 2003). Additionally, a study in Cape Town is feasible because this is where I reside. The results of this study cannot be generalized to South Africa, but provide useful data for a study conducted at national level. Findings could not be

generalized because urban/rural challenges or opportunities faced by refugees in South Africa are contextual. The findings will be useful for comparison with Johannesburg and Durban, which also have a lot of refugees (Landman, 2000). The findings will contribute to knowledge on the subject of access to education for refugee children in South Africa.

I used qualitative data collection and analysis techniques, which are widely used in education research. Researchers, Strauss and Corbin (1998: 10) refer to qualitative techniques as, "any type of research that produces findings not arrived at by statistical procedures or other means of quantification." Punch (2009: 2) provides a simple definition, describing qualitative research as, "empirical research where the data are not in the form of numbers." Similarly Charles (1995: 21) states that qualitative research, "explores traits of individuals and settings that cannot easily be described numerically and information is largely verbal and collected through observation, description and recording." I have concluded that qualitative research is non-numerical, mostly "verbal and collected through observing a subject, describing their responses and recording the findings."

My research is also descriptive. According to Charles (1995: 23), descriptive research is carried out to, "depict a situation as it exists." Sources of descriptive research data are physical settings, records and documentation, and people directly involved (Charles, 1995: 23). This list of descriptive sources of data includes both primary and secondary sources. Charles accentuates the reliability of primary sources which include original reports and "eyewitness accounts" (1995: 27). Second-hand reports or interpretations of primary data are secondary sources (Charles, 1995: 27). I used documentary sources from the Department of Education, Department of Home Affairs, NGOs and relevant media articles. I also conducted in-depth and focus group interviews with a cross-section of respondents from NGO representatives to refugee parents and school heads. This is discussed in more detail when I present my data collection methods (Charles, 1995: 27).

Qualitative techniques are relevant to my study because they are useful in exploring people's experiences (Stern, 1980). Furthermore, this technique allowed me to meet with refugee parents, school officials and non-governmental organisation representatives to discuss their experiences with issues around child refugee access to primary education.

I recognize the strength of mixed-method approaches in case study research. I considered Southern African Migration Project (SAMP) data collected from migrant populations including refugees

through surveys; however I faced some challenges in accessing this data. Furthermore, I discovered that not much research has been done in this area of interest. I chose to conduct a qualitative study because it provides in-depth information that may be a useful foundation for additional large-scale survey research, beyond the scope of this thesis.

Despite this initial setback, qualitative research answers “why” questions which numerical data may not be able to answer. It allowed me to compare official and non-official perceptions of the status of child refugee access to primary education. That is, how refugee policy drivers such as the Department of Home Affairs, or school officials see child refugee access to primary education in comparison with how refugee parents see it. For example, if refugee parents have experienced difficulties in enrolling their children in schools, are government officials aware of these challenges and if so, how they might have addressed these challenges.

It is necessary to point out that qualitative techniques have limitations. Findings are limited by the “sensitivity and integrity” of the researcher (Riley, 1963). I mentioned earlier that findings of this particular study cannot be generalized to South Africa. It would be inappropriate and inaccurate to assume that findings from Cape Town apply to the rest of the country. However, this research project contributes to research by providing a picture of the situation of refugee children’s access to education in Cape Town. This picture can be compared with other case studies to identify common themes.

4.3 Sampling

Neyman (1934: 559) credits stratified purposive sampling as a method which enables “selection units which represent a whole.” Similar methods were used by Gobo (2004) to purposefully select elementary schools where some had integration difficulties between natives and immigrants, and schools where there were no (not as many) difficulties with integration. Single case studies are able to provide reliable information about a broader set and also provide, “closeness to real-life situations and wealth of details,” (Seale, 2004: 422).

As alluded to earlier, Kelly, Lungwangwa and Sililo’s (1998) levels of factors which affect school attendance amongst children also informed the selection of respondents for my interviews:

- a. The Minister or Deputy-Minister of Home Affairs and Minister or Deputy-Minister of Education. However, this did not materialize. I decided to use policy documents, speeches and other official data to answer questions directed at government representatives.

- b. One deputy-principal from a school in Cape Town.
- c. Three non-government and community organisation representatives involved with promoting access to education for refugees. These are Agency for Refugee Education, Skills Training and Advocacy (ARESTA), the African Centre for Migration and Society (ACMS), the Consortium for Refugees and Migrants in South Africa (CoRMSA), the Somali Association for South Africa (SASA). Due to time constraints, representatives from CoRMSA could not participate in an interview.
- d. 9 refugees with children attending and not attending school. These interviewees are a mixture of both in-depth and focus group interviews. Focus group interviews allow the researcher to collect data as respondents' interact, as opposed to only asking direct questions and receiving direct answers (Kitzinger, 1995). It will be significant to note the perceptions of refugee children's parents with regards to access to education for their children, and the challenges they have experienced in comparison with those raised by other respondents in the aforementioned categories.

Each level of data collection is designed to obtain answers from the various layers provided by Kelly, Lungwangwa and Sililo (1998). Thus, Kelly's (1998) levels have been adopted to target specific respondents as presented in the table below:

Kelly's Levels	Category of documents/respondents
Socioeconomic factors linked to socioeconomic climate.	-Departments of Home Affairs and Department of Basic Education policy and other documents and -- NGO representatives (ARESTA, African Centre for Migration and Society (ACMS) and SASA)
Factors at the level of the education system	Department of Basic Education Policy and other documents
Factors at the school level	Deputy-Principal of a school in Cape Town
Factors at the family and community level	Parents of children attending and not attending school. -NGOs working with refugees (ARESTA, ACMS,SASA)

Government departments have been selected according to their roles and responsibility for refugees and in particular refugee children in light of the right to education. As previously mentioned, data sources will include policy and other documents including speeches. ARESTA suggested I approach a school in Cape Town which was a relevant source of data with regards to factors at the school level. The NGO provided a list of refugee parents who have interacted with the organisation.

My sample initially intended to interview parents with children attending school, and those who do not. However, the majority of parents I interviewed had children attending school and first-hand accounts of the challenges and factors promoting access for their children. This enabled me to understand why some parents succeed to enrol their children in primary schools, and others do not. I would like to mention that it was difficult gaining access to some groups of refugees with cultures that are not open to outsiders.

NGO representatives provided finer details on demographics comparing number of parents with children in school and not in school. ARESTA, SASA and the African Centre for Migration and Society were selected according to relevance and availability of their representatives. ARESTA and SASA are located in Cape Town and will provide data on refugees in Cape Town. The African Centre for Migration and Society (ACMS) provided a national assessment of the issue. Although I was not able to secure an interview with the CoRMSA, they provided annual reports with a wealth of data on the research area in the form of an annual report.

Multiple sources (from macro to micro levels) serve to promote reliability of in this study (Cook and Campbell, 1979 in Babbie and Mouton, 1998: 281).

4.3 Data Collection

I conducted semi-structured in-depth, face-to-face interviews with a cross-section of respondents including NGO representatives working with refugees, school officials and child refugee parents. Gillham (2000: 5) highlights that in-depth interviews “lead to a greater level of discovery.” Face-to-face interviews also provide, “special insight into subjectivity, voice and lived experience,” of respondents (Atkinson and Silverman, 1997 in Seale, 2004: 15).

It was difficult securing appointments with government officials from the Department of Basic Education and Department of Home Affairs. In order to still have a picture from the viewpoint of these policy drivers, I decided to look at official primary (Policy documents and Acts of Parliament) and secondary documents published by both Departments with information related to my research (media releases, media articles). These have been included in my analysis.

I also conducted focus group interviews with refugee parents. Group interviews are widely used in social science research. Interaction within a group provides data that one would not come across

through individual in-depth interviews (Punch, 2005: 171). Instead of taking on the role of interviewer, the researcher “facilitates, moderates, monitors and records group interaction” (Punch, 2005: 171).

The various levels of respondents in this research project allow me to assess child refugee access to primary education through different lenses. My research target group cuts across the spectrum of people involved in policy-making and implementation as well as those who are affected by refugee and education policies. At the macro-level, government policy and other documents and interviews with NGO representatives from the Agency for Refugee Education, Skills Training and Advocacy (ARESTA), the African Centre for Migration and Society (ACMS), the Consortium for Refugees and Migrants in South Africa (CoRMSA), the Somali Association for South Africa (SASA), point to factors affecting child refugee access to education. At the meso-level (deputy-principal of a school in Cape Town) and finally at the micro-level (parents of child refugees).

My sampling method adapts Kelly, Lungwangwa and Sililo’s (1998) analytical framework for understanding factors affecting children’s school attendance. These scholars identify factors affecting school attendance at four different levels: *The socio-economic factors related to the socio-economic climate of the Cape Town; factors at the level of the education system; factors at the school level and factors at the family and community level.* It is important to recognize that there is always a general political context in which education and its stakeholders operate (Punch, 2009: 38).

The levels show that problems related to child access to education for refugees or locals are multi-faceted. They include socioeconomic factors beyond the control of the parent or schools; the education policy and budget of a country (insufficient public resources for education and poorly structured school curriculum); primary school policies (admission and fees, inadequate facilities, poor quality provision and poor teacher morale); and finally factors from within the family (parental disillusion, negative perceptions of primary school education and other basic needs that may take priority) (Kelly, Lungwangwa and Sililo, 1998).

4.4 Interview Schedules

Kelly, Lungwangwa and Sililo’s (1998) levels of factors affecting school attendance also informed the themes of questions in my interview schedules. The table below summarizes themes of questions asked to specific categories of respondent’s according to the levels of factors. It is important to note that categories of questions overlap:

Kelly's Levels	Category of documents/respondents	Type of questions asked
Socioeconomic factors linked to socioeconomic climate.	-Departments of Home Affairs and Education policy and other documents (CoRMSA Report) and --NGO representatives (ARESTA, SASA and ACMS)	-Questions related to legislative and policy issues: effects of the refugee documentation process. -Issues related to integration of refugees in Cape Town: employment opportunities, places of residence,
Factors at the level of the education system	Department of Education Policy and other documents (CoRMSA Report)	-Issues related to education policies on access to schools
Factors at the school level	Deputy-Principal of Maitland High	- Issues related to application of education policies on access to schools: enrolment requirements, criteria for assessing applications, fees, integration and placement issues for refugee children.
Factors at the family and community level	Parents of children attending and not attending school. -NGOs working with refugees (ARESTA, ACMS and SASA)	-Challenges and opportunities experienced by refugee parents in Cape Town; effects of refugee documentation processes on economic independence; integration into local communities; knowledge about Refugee and Education policies and the right to education.

I added an additional category of questions about legislative and policy provisions. Interview schedules are available in the appendices section.

4.5 Data Analysis

I employed De Wet and Erasmus' (2005) approach to qualitative analysis. They emphasize that qualitative data analysis does not have to be without structure and procedure. Instead, it can be "systematic, procedural and rigorous" (De Wet and Erasmus, 2005:27). This approach was applied to data from interviews, policy and legislative documents, NGO reports and media articles. The authors elaborate that systematic analysis is "the conscious use of procedures to organize mass data methodically." The first step in my analysis adapted Miles and Huberman (1994) and De Wet and Erasmus' (2005) approach which encourages the researcher to read transcripts and other sources of

data (in my case, policy documents, media articles and NGO reports) very closely. For example, this helped me to pick up the inter-relatedness of factors promoting and/or hindering child refugee access to education. All respondents commented on refugee parents' inability to pay fees. Refugees and NGO representatives explained that this was not an isolated hindrance to access, but a result of unemployment or inability to earn an income. These observations came from the benefit of allowing me to "interact" with the data (De Wet and Erasmus, 2005).

Kelly, Lungwangwa and Sililo's (1998) levels of factors affecting school attendance provided me with a start list of codes, which I used in first level coding of the data. This stage of coding aims to produce a working set of codes that may only be descriptive and require little interpretation (Miles and Huberman in Fielding and Lee, 1998: 41). Nvivo computer software made it possible to organize my data into two primary trees: Factors promoting access to schools and Factors hindering access to schools for child refugees. Descendants of these two trees initially reflected Kelly, Lungwangwa and Sililo's levels of factors, but closer reading of the transcripts alerted me to the importance of another category of factors: legislative and policy factors promoting or hindering access to schools for child refugees. Like De Wet and Erasmus (2005), Nvivo made it possible to define each code.

I would like to mention that the coding process is non-linear and first or second-level coding may take place at different stages of analysis. After generating my descriptive codes I began identifying themes and patterns in the data. Second-level coding notes regularities in the data by creating pattern codes (Miles and Huberman, 1994). These codes have inferential and explanatory characteristics. It is a "deeper level of analysis" (De Wet and Erasmus, 2005: 33). This means that second-level coding identifies connections between coding categories and begins to build theory. Generation of node reports and memos in Nvivo allowed me to identify and compare patterns between or amongst respondents and other documentary evidence from government policies and media articles. For instance, deeper analysis helped me to identify a relationship between policy actors such as the Department of Basic Education and refugee parents. It was clear that most refugees are not able to pay fees. The Department of Basic Education recognized the plight of many parents (both South African and non-South Africans), and introduced several mechanisms including no fee schools and fee exemptions to ensure that their children are still able to attend school. This also revealed how a factor hindering access (inability to pay fees), led to the adaptation of factors promoting access in the form of policy provisions which prohibited exclusion of children from schools because they are not able to pay fees.

My analysis was also informed by relevant literature which has provided data related to child refugee access to education. For instance, the literature identifies challenges experienced by refugee parents in sending their children to school in the South African and other African contexts such as Kenya and Uganda. Analysis helped to determine whether refugees in Cape Town experience similar challenges. The following challenges have been identified in the literature: unaffordable school fees, incapacity of schools (teachers and learning materials), competing priorities related to basic needs, language barriers (Khan, 2007; Landau, 2006; Sayed and Jansen, 2001; Quint, 1999).

Data from interviews with parents, NGOs and schools served to assess if these challenges are common to refugee parents; why some parents have succeeded in getting access (a key question in this regard is the influence of asylum documentation on child access to primary schools) and why other parents fail to access schools for their children.

4.6 Ethical Considerations

Although research ethics is an ambiguous topic, it is critical to take ethics into consideration when planning research (Babbie, 1983: 463). Ethics refer to questions about the “right and wrong” of research (Fraenkel and Wallen, 1993: 32). Babbie (1983: 319) states that in investigating social issues, researchers find themselves in the midst of “political, ideological and ethical issues.” This means it is difficult for researchers to remain impartial. However, my methods of analysis, findings and conclusions are guided by established rigorous practices for qualitative research. Steps towards rigour include journaling of analytical processes and decisions for greater transparency in my analytical thinking and verification of findings using inter-coder reliability (De Wet and Erasmus, 2005).

Ary et. al. (2006: 483) outline ethical issues particularly relevant to qualitative research. The first set of issues pertains to the “kind of information” to be obtained. The authors stress that the researcher must determine whether participants or society are his/her responsibility. This is considered one of the most important ethical issues since the researcher must ensure that participants are “protected from physical or psychological harm, discomfort or danger that may arise due to research procedures.” This is particularly relevant where interviewees may share information that implicates them in illegal activities. For refugees, this may include knowledge that they are in the country illegally. I have chosen to prioritize my responsibility to the refugees because of the nature of their struggles in obtaining relevant documents from the Department of Home Affairs. During my pilot interviews with refugees, I found that many of them face the same challenges, which are not necessarily any fault of their own, but a result of an overburdened documentation system.

The second set of issues highlights the “researcher’s relationship to participants” (Ary et.al., 2006: 484). Of importance are issues of anonymity and confidentiality (Ary et.al., 2006; Fraenkel and Wallen, 1993: 37). Fraenkel and Wallen (1993) stress that data collected should not be accessible to any other persons. Assigning numbers or codes to transcripts makes it possible to mask respondents’ identities and protect their anonymity. In light of this, I used pseudonyms to protect the identity of refugees participating in my research. I have included a consent form which states that I will keep participants’ identities confidential and the participants’ right to withdraw from interviews or not answer sensitive questions.

The third set of issues is concerned with “reciprocation” (Ary et.al. 2006: 484). This refers to the fact respondents give their time, cooperation and information, and researchers have an obligation to reciprocate this in some way. Reciprocation may take the form of a written report or presentation of findings (Ary, et.al. 2006: 485). This thesis is an academic study that will be available in the University of Cape Town Library, and a summary of findings will be made available to ARESTA as requested. Additionally, a presentation of findings would be appropriate to refugees, government (in particular the Department of Home Affairs and Department of Education) and other stakeholders.

Finally, the fourth set of issues states the need to acquire “permission to conduct the research” (Ary et.al. 2006: 485). I touched on this previously in the discussion about maintaining anonymity and confidentiality, which are both outlined in a consent form designed for respondents to understand the nature of the research and provide written confirmation of their permission to be interviewed. Although ARESTA and other organisations facilitated the interviews by referring me to some of their refugee clients, I confirmed refugees’ willingness to participate. Thereafter, I asked them to provide written confirmation of consent by way of a signature.

Although I am not a refugee, I am sensitive to the refugees’ vulnerability because of the nature of their experiences, which often include trauma. Additionally, I had a list of contacts of organisations which assist refugees with counselling, education and other support services, but none of my respondents needed this assistance. I avoided making my respondents uncomfortable by limiting my questions to issues related to my thesis, which did not require respondents to reflect on any experiences of conflict or persecution.

4.7 Critical Reflections

Adapting Kelly, Lungwangwa and Sililo's (1998) framework in developing my research instruments and analysis of data proved to be an asset to my study. It helped me to organize my interview questions and later categorize data in a structured, logical and workable format. I used categories of factors to answer my central research question, pointing out what factors at each level either promoted or hindered access to schooling for child refugees.

My qualitative case study design also proved relevant as it provided a snapshot of child refugee access to schooling in Cape Town. It was my intention to also include more schools in my investigations, but I did not manage to secure interviews with two other schools in Cape Town. A comparison of factors at the level of two or more schools would have allowed me to see if observations made at the school that participated in my study are similar to those in other schools. However, data collected at this school shed light on a number of pertinent issues including the need for more state support at schools with refugees.

Respondents understood questions in my pilot interview but refugee parents often asked me to repeat questions about their knowledge of rights awarded to them by South African law. Although most refugee parents understood and could respond to questions posed in English, I think future studies should have interview schedules in their first language. In my case, most refugees spoke French or Swahili more fluently than English. I observed that refugees would have been able to provide more detailed accounts of their experiences if they had responded in a more familiar language.

Chapter 5

Findings and discussion

Introduction

My central research question asked: *What factors promote and/or hinder access to education for child refugees in Cape Town?* In this section I use Kelly, Lungwangwa and Sililo's (1998) levels of factors affecting access to education to present my findings. I highlight relationships between the various levels described in the discussion chapter. For example, implementation of policies promoting access to education such as the South African Schools Act (1996) is influenced by factors at the school level (school administrators). School authorities use their discretion to decide "how" to apply such policies and provisions, or whether to apply them at all. Although legislative and policy provisions are not findings in themselves, they buttress the presentation of findings from the focus group and in-depth interviews.

5.1 Factors promoting child refugee access to schools in Cape Town

There are a number of factors which help and enable refugee parents, alongside all South African parents, to send their children to schools in Cape Town and other parts of the country. It must be noted that most of the pertinent national policies and legislation refer to "all children" in South Africa. The Refugee Act No.130 (1998) is the only legislation that speaks directly to refugee children's access to education.

5.1.1 Legislative and policy provisions promoting access

This section provides a brief summary of relevant South African legislative and policy provisions that promote access to education for refugee children. Detailed provisions impacting on issues to do with fees, admissions and further issues are included in other sections of this chapter.

South Africa is credited for its progressive Constitution and commitment to equality. The principles enshrined in the Constitution set up a platform for rights such as access to education to be realized amongst South African children and refugee children. The existence of such policies does not necessarily guarantee access.

Provisions in the Constitution of South Africa (No. 108 of 1996) states that, "the state must take responsibility for equity, practicability and the need to redress past discriminatory laws and practices

in order to ensure effective access to schools,” (Cormsa Report, 2010; Department of Education, 2010a; Tanga, 2009). The goal of this statement is to “promote equality, human rights and establish a non-racist and non-sexist education system,” (Tanga, 2009: 27). Indiscriminate access helps to promote access for refugees. There are a number of Acts which support these constitutional goals.

The National Education Policy Act (1996)

The Act stresses the need to protect and advance all people’s fundamental rights to a basic education and fight to uproot discrimination. This Act allocates monitoring of implementation and legislative responsibilities to the Minister of Basic Education (Department of Education, 2010a; Tanga, 2009).

South African Schools Act (1996)

The South African Schools Act (1996) is particularly relevant because it “promotes access, quality and democratic governance” in the schooling system (Tanga, 2009). It ensures that all children of school-going age have access to schools and quality education without discrimination. As highlighted in Chapter 5, the South African Schools Act (1996) makes it compulsory for all children between the ages of 7 and 14 years to attend school. Its provisions about fees will be elaborated in the “socioeconomic factors” section when I present why refugee children from families that are not able to fees are permitted to attend school (Department of Education, 2010a; Tanga, 2009).

Education White Paper No.6 on Inclusive Education (2001)

This policy document explains the intentions of the Department of Education to implement inclusive education at all levels of the education system by 2020. It emphasizes the need to include “vulnerable” children and reduce barriers to improve participation in the education system.

The Refugee Act No.130 (1998)

The Refugee Act of 1998 stipulates that a refugee child is entitled to “the same basic education which the inhabitants of the Republic receive,” (Tanga, 2009). As mentioned in Chapter 4, South Africa is a signatory of the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol and the 1969 OAU Convention. Refugee children are classified as a vulnerable group and fall into this category of children.

Department of Education Plan of Action (2003)

The Department of Education developed a Plan of Action in 2003 after an assessment of “access to and the costs of basic quality education.” Through multiple studies, the South African government took steps towards “compulsory schooling that is of high quality, and accessible to all South African learners.” The Plan focused on the poorest 40 percent of South Africans to improve access to schools for the underprivileged in society. Notably, this study focused on South African learners and not

necessarily foreigners studying under the same system. Despite this focus, Dr. Loren Landau of the Centre for Migration Studies at the University of the Witwatersrand pointed out that:

The constitution provides a number of important protections. The first is that everyone should have a legal identity. This means even undocumented migrants are supposed to be treated within the due process of law. Moreover, the constitution only makes limited restrictions on who is entitled to the rights it outlines. With the exception of certain types of voting and benefits, all legal residents should be entitled to a full suite of protections. (Interview with Dr. Loren Landau, Centre for Migration Studies at the University of the Witwatersrand)

Dr. Landau's statement qualifies that migrants, whether documented or undocumented (both of which include refugees), are not limited by their status when it comes to accessing rights such as the right to education. The only right specifically reserved for South African citizens, is the right to vote.

The executive director of the Foundation for Human Rights, Ms. Yasmin Sooka, also asserted that:

The migrant community had a right to education, just like South Africans. The policy framework for education rights is in place but those responsible for its implementation need to be more aware of it. (*Mail and Guardian*, 11.11.2011)

Ms. Sooka emphasized the need for political and administrative commitment to the implementation of education rights. Government representatives, school officials and teachers play an important role in ensuring education rights amongst locals and non-South African children. One such commitment was made by the Minister of Women, Youth, Children and People with Disabilities, Ms. Noluthando Mayende-Sibiya, when she said:

Article 22 of the Convention requires that we provide services to children who are seeking refugee status or who are considered refugees, whether unaccompanied or accompanied by their parents or by any other person. As a loving nation, South Africans have to ensure that refugee children receive appropriate protection and humanitarian assistance. We have to work together to protect these children from discrimination and abuse. (*Mail and Guardian*, 21.06.2009)

Although there is government commitment to universal access, implementation and application of this commitment at grassroots levels is not uniform. The gaps between policy and practice will be discussed in the following chapter.

5.1.2 Socioeconomic factors promoting access

This section looks at socioeconomic factors promoting access to schools for refugee children. Such factors include issues around school fees, housing, and means for earning an income for refugee parents. Poor South Africans also face similar socioeconomic challenges, but these findings are specific to refugee children. The ability of refugee parents to earn an income has a bearing on their

economic capacity to pay fees and buy other school necessities such as books, school uniforms or stationery. On the other hand, possession of asylum or refugee documentation impacts on refugee parents' ability to find employment. It is imperative to keep this in mind as we proceed because although there are socioeconomic factors promoting access to schools for child refugees, they are often interlinked with other factors as discussed above.

School Fees

Earlier I mentioned that I would refer to legislative provisions relevant to different sections of my findings. In this section I would like to highlight that there are a number of policy and legal provisions ensuring that families that cannot afford fees are not excluded from the public education system.

The National Norms and Standards for School Financing Policy aimed to address issues related to public funding by introducing state subsidies for some schools and exempting poorer parents from having to pay fees (Asmal and James, 2001: 189). Additionally, schools were prohibited from denying access to poorer families unable to pay fees (Fiske and Ladd, 2003: 12). According to Asmal and James (2001: 189), this Policy also directed more affluent schools to contribute towards the running of schools in poorer communities. These provisions go a long way in promoting access despite the lack of means to pay fees, but most poorer students "face major difficulties in collecting their fees even when they are as low as ZAR 20 a year" (Interviews with principals of schools in South Africa, Fiske and Ladd, 2003: 13).

This policy and legal framework is a cornerstone for refugee children to attend school.

The National Education Policies Act (1996) states that:

(No pupil) may be suspended from classes, denied participation in sporting or cultural activities, denied a school report or transfer card, or be victimised because his or her parent has not [paid] or cannot pay school fees. (*Mail and Guardian*, 28.10.2011)

The *Mail and Guardian* (11.11.2011) quoted Vaughan Holmes of the Gauteng Department of Education who said:

Access to schools was a right that was immediate and not dependent on resources. The right to basic education is not qualified by a phrase like 'within available resources' as is found in many of the socioeconomic rights provisions of the Constitution. (*The Mail and Guardian*, 11.11.2011)

Thus, the inability to pay fees is not grounds for children to be denied access from schools. In 2005, the Education Laws Amendments Act No.24 amended SASA (1996) to classify schools in

disadvantaged communities as “no-fee-schools” (Department of Education, 2010a: 12). Additionally, SASA (1996) includes “fee exemptions” as an option for parents who cannot afford. Section 4 of the Act places the onus on school authorities to make sure that parents are aware that fee exemptions are available (also quoted by the *Mail and Guardian*, 28.10.2011). Section 3 of the SASA (1996) (Exemption of Parents from the Payment of School Fees Regulations) states that parents may be exempted:

- a. if the combined annual gross income of the parents is less than ten times the annual school fees per learner, the parent qualifies for full exemption;
- b. if the combined annual gross income of the parents is less than thirty times but more than ten times the annual school fees per learner, the parent qualifies for partial exemption; and
- c. if the combined annual gross income of the parents is more than thirty times the annual school fees per learner, the parent does not qualify for exemption. (Section 3 of SASA, 1996)

For families with one child this system of administering fee exemptions proved beneficial, however in cases where parents have more than one child, it creates difficulties because their income is divided amongst all their children and not one child at a time. Section 5 (2) stipulates that school governing bodies should also consider:

The financial position of the applicant including: total gross income, total annual expenses and number of dependants of the applicant and standards of living of the applicant. (Section 5(2), SASA, 1996)

The Department of Basic Education Plan of Action (2003a: 25) recognized the gaps created by assessing parents’ applications on a child-by-child basis. Policy changes in 1998 stated that:

Parents with a combined annual gross income of less than a certain amount per annum may count the annual school fees of more than one learner when applying for partial or full exemption from the payment of school fees. (Department of Education Plan of Action, 2003a: 25)

Fee exemptions and other benefits mentioned above apply in South Africa’s public schools. For this reason, refugee parents find it more affordable to send their children to public schools rather than private schools. A Congolese refugee in custody of his deceased brother’s children said:

So my nephew is now attending a government (public) school. Fees at the government (public) primary schools are quite ok. But private school fees... it is very very difficult because they need money and it was so painful and difficult for me to pay Zar15,000 for my nephew before I moved him to the public school. It was expensive. (Interview with Refugee Parent 1, 2011)

A Congolese mother of three confirmed that in her experience, schools in Cape Town did not send children away because a parent could not pay fees:

My kids are still small. All of them are going to school. I haven't paid the fees, but they still go. (Interview with Refugee Parent 5, 2011).

A Burundian mother with children attending a primary school in Cape Town and a Ugandan mother also testified that although they had not been able to pay fees, their children still attended school (Interviews with Refugee Parent 6 and Refugee Parent 9). The Deputy-Principal of a school in Cape Town confirmed their experiences:

Even if refugees fail to pay fees, their children are not sent home. They can still attend school. (Interview with the deputy-principal of a school in Cape Town, 2011)

A number of organisations in Cape Town also assist refugee parents with schools fees if they cannot afford to pay fees. The Cape Town Refugee Centre (CTRC), ARESTA and the United Nations High Commission for Refugees (UNHCR) all provide some form of assistance to refugee parents. The Advocacy Officer at ARESTA confirmed the organisations support to refugee parents:

We contribute half of the money they are supposed to be paying towards fees. We contribute ZAR 600 which is very little and the rest is contributed by the parents. (Interview with the ARESTA Advocacy Officer, 2011)

Although ARESTA contributes ZAR600 towards fees for some refugee parents, the Advocacy Officer stressed that this is a meagre amount in comparison with what the parents have to pay in annual fees. He indicated that fees varied from parent to parent depending on the schools which their children attended:

It (fees) depends on the school. We've had some parents come here looking for assistance, but we look for other funders who might be able to assist them. Basically, we have UNHCR and the CTRC who also assist. (Interview with ARESTA Advocacy Officer, 2011)

The Director of the CTRC, Christina Henda, confirmed her organisation's fee assistance to refugees:

The Cape Town Refugee Centre encourages children of school-going age to attend school and assists with their fees. (*Mail and Guardian*, 04.11.2011)

One refugee parent indicated that they had received assistance from the CTRC:

My son is in school, now in primary school. The CTRC helped with fees for about three months. The next months I paid the fees myself of between R400 and R550. (Interview with Refugee Parent 8, 2011)

A Burundian mother recalled how the Catholic Church provided her daughter with a scholarship to attend school:

My other child is in Jo'burg at Dominica. It is a boarding school. The Catholic Church helped me with only one child. (Interview with Refugee Parent 9, 2011)

Assistance from NGOs and faith-based organisations to refugee parents makes schooling accessible to parents who cannot afford. As we will see in our findings, there are other factors such as documentation which impinge on refugee parents' income and economic capacity to afford school fees.

Means of income for refugee parents

In order for refugee parents to be able to pay their monthly expenses including school fees, they often look for employment or find other means to earn a living. Some parents start their own businesses to earn enough money to send their children to school. Sometimes they are not aware of fee exemptions.

A female Congolese refugee explained how her husband started his own business to support their family (Interview with Refugee Parent 9, 2011):

He (the husband) started selling goods in the street. He sold fruit in the street, and the Metro police (in Johannesburg) started taking people off the streets who sell. We didn't have money to hire the house to sell in a shop. People from my country who come to Cape Town stay in the location. They have shops, hire containers and start small businesses. After the police pushed them from the street, my husband had little money. We decided to come to Cape Town to live and hire a container to sell goods. I'm now running the business with my husband; but for now, my husband is not here. (Interview with Refugee Parent 9, 2011)

Other refugees opt to improve their English by taking classes in order to find employment in Cape Town. ARESTA teaches English to refugees in order for them to be able to find work. The ARESTA Advocacy Officer elaborated:

The other leg is looking at education. So with education, we have not excluded – we have now included everybody (South Africans too and not only refugees) – using education as a tool for survival. So we had to have English as part of our programmes since most refugees come from non-English speaking countries. Even those coming from English-speaking countries have dropped out of school. So, we realized the importance of teaching English. So you have, four levels (1,2,3 and 4). Level 4 has a programme which is equivalent to matric, where if they pass, they can go straight to university. Yea, so that's what we do here. Level 1 is a beginners' level. At the same time we have people who are trained. We have lawyers, doctors, who cannot speak English because they come from the Congo. So, we train them to get the basics so that when they go to the field they can converse. So those are the major areas that we look at. (Interview with ARESTA Advocacy Officer, 2011)

The importance of English language proficiency amongst refugee parents to find employment or use their skills makes it an important factor promoting access to schools for refugee children. This is because without it, refugee parents may not be able to find work or run businesses in South African communities. Without an income, it is more difficult for refugee parents to send their children to

school. Although NGOs and schools may assist with fees, there are other school-related costs that need to be met including transportation and food.

Three refugee parents also confirmed the importance of being able to communicate in English in South Africa. One mother said:

That's why I'm learning English. Because some people might want someone who knows how to write down and to speak ... otherwise you can't find a job. That's why I'm at ARESTA to learn English. (Interview with Refugee Parent 5, 2011)

An IT technician also accentuated the importance of English proficiency when he said:

When I arrived here, I was already learning English. It helped me to go and search for a job and so on. I started working; teaching in one college. It was a practical college somewhere in Cape Town, and they introduced IT courses there. (Interview with Refugee Parent 8, 2011)

This refugee parent's knowledge of the English language enabled him to get a job teaching a subject he was qualified to teach. Knowledge of English is a critical factor in increasing a refugee's – especially refugees from non-English speaking countries- chances of finding employment.

5.1.3 State/Government's promotion of access to education

Government policies and sections of legislation including SASA (1996) and the National Education Policy Act (1996) influence factors at the level of the education system that promote refugee children access to schools in South Africa. Clear guidelines subscribed by policy and legislation sometimes translate into concrete government commitment to refugee children's access to education. Earlier I referred to the Minister of Women, Youth, Children and People with Disabilities' and Gauteng Department of Basic Education verbal endorsement of child refugee access to education in South Africa. Annual events such as the Day of the African Child and World Refugee Day also promote awareness at the national level among the general public about refugee children's access to schools in South Africa. In 2009, 150 South African and refugee children celebrated the Day of the African Child with the Minister of Women, Youth, Children and People with Disabilities (the *Mail and Guardian*, 21.06.2009).

Abraham Serote, the Deputy-Director of the National Department of Basic Education's Social Cohesion and Equity Directorate, also affirmed the government's stance on providing education for child refugees even when their parents do not have all the necessary documentation. He said:

Even if a learner does not have a birth certificate, he can still be admitted to the school conditionally. Parents should provide the school with a birth certificate or an affidavit with the child's birth details within three months

of admission, but this doesn't mean that the learner will be kicked out of the school if the documentation was not provided. That is not in the child's best interests. (*Mail and Guardian*, 11.11.2011)

The Western Cape Basic Education Department's Director of Institutional Management and Governance Planning, Makhosandile Ndzuzo, also expressed the government's commitment to refugee access to schools by making an announcement about appeal mechanisms where refugees have been denied access (*Mail and Guardian*, 04.11.2011). He said:

If a school turns you down ... there's an appeal mechanism that you can launch directly with the [provincial education minister]. It's always a test for the system to meet [its] policies. (*Mail and Guardian*, 04.11.2011)

Ministerial commitment to child refugee access to education at the level of the education system is important but this commitment (as with any other policies) should be effectively communicated to grassroots for goals to be met. For example, the Deputy-Director of the National Department of Basic Education's Social Cohesion and Equity Directorate pointed out that:

The South African Schools Act, said school governing bodies had to inform parents of admitted learners of their rights and obligations, such as the right to fees exemption. But that did not always happen. (*Mail and Guardian*, 11.11.2011)

5.1.4 Factors promoting access at the school level

This section of findings refers to factors at the level of school administration that promote access of child refugees to schools.

Admission policies and their implementation

The National Education Policy Act (1996) Admission Policy for Ordinary Public Schools mandates heads of departments at schools to determine a process of registration into public schools. This means that school authorities have a measure of discretion in how they implement admission policies. Despite having a measure of flexibility, there are principles of admission that cannot be compromised. For example, Section 9 prohibits unfair discrimination of applicants.

Legislation provides that:

The principal must help the parent obtain documents if they are not readily available, and the child must be admitted to the school conditionally. If, after three months, documentation is not available, the school governing body, in consultation with district officials, must attend to the matter. Also by law, a child without legal status can still be admitted to a public school as long as a caregiver or parent can provide proof that an application has been made to stay legally in South Africa. (*Mail and Guardian*, 2011).

This insert from the *Mail and Guardian* (28.10.2011) demonstrates that school heads have a responsibility to ensure that applicants, in particular refugee children, have an opportunity to access schooling. A commitment at the school level means that there is a higher likelihood of policy being translated to practice and beneficiaries (such as refugee parents and children) of education policies benefit.

A Congolese parent indicated that it was easier for his children to be admitted to public than private schools. He said:

Government (public) schools...I think it's easy to send children to these schools. Especially foreign children because there is no requirement about your country or something like that. Other schools are a bit different. (Interview with Refugee Parent 1, 2011)

The deputy-principal of a school in Cape Town said the school had "opened its doors" to refugee learners. She added:

It's rare for us to turn children away. (Quoted in the *Mail and Guardian*, 04.11.2011)

In my interview with the deputy-principal of a school in Cape Town, she explained that a number of nationalities were represented including Congolese, Zimbabwean and Rwandese children (Interview with deputy-principal of a school in Cape Town, 2011). The deputy-principal added that the District "refers all students to her school, especially refugees," (Interview with a deputy-principal of a school in Cape Town, 2011). She indicated that even when refugee parents do not have identity documents for their children, they have the option to obtain an affidavit from a police station (Interview with a deputy-principal of a school in Cape Town, 2011).

Some schools accept progress reports from a crèche where refugee parents do not have documentation. The *Mail and Guardian* (28.10.2011) quotes a researcher of the Education Rights of Refugees and Migrants project who conducted a study about a school at Orange Farm that caters for foreign children without identity documentation:

Primary schools in the area accept progress reports from her crèche as valid documentation. This means that migrant children are also able to benefit from this arrangement, because they just have to submit a progress report from her crèche. (*The Mail and Guardian*, 28.10.2011)

NGOs such as the Scalabrini Centre in Cape Town also assist with the application process for refugee parents by providing them with letters. A Congolese father described how the Scalabrini Centre assisted him with his son's application to a school in Cape Town:

It was easy to enrol my son at Parel School because when I was working at Scalabrini Centre. I found the counsellor. She helped me a lot and gave me letters that I took to the principal of the school. (Interview with Refugee Parent 9, 2011)

Language and Curriculum

The Department of Basic Education *Report on the 2008 and 2009 Annual Survey for Ordinary Schools* (2011: 30) refers to the language of learning and teaching as “the language medium through which learning, teaching and assessment are conducted.” The Report outlined that in 2009, the majority of learners in single-medium ordinary schools in South Africa were taught in English (8157), followed by Afrikaans (1701), isiXhosa (348), IsiZulu (215) and the remainder of 389 were taught in Sepedi, Sesotho, Setswana, Seswati, Tshivenda, Xitsonga (Department of Basic Education, 2011: 22). In the same year, the majority of learners in the Western Cape were taught in Afrikaans (457,972 out of a total 979,422 students); followed by English (455, 805) and isiXhosa (64,384) (Department of Basic Education, 2011: 30).

As I have already highlighted, most refugees are from Francophone or non-English speaking countries including the DRC and Somalia. This means that because the language of learning in the Western Cape is dominantly Afrikaans or English, refugee children may face difficulties adjusting. My findings show that on the contrary refugee parents interviewed in my study revealed that younger children tend to adjust to other languages much faster and excel in school once they do. When I asked a refugee parent whether her children struggled to learn English and Afrikaans she replied:

No, they have learnt quickly now and in that area, they speak Afrikaans, now if you hear them they are like Cape-coloureds. In that school they learn in Afrikaans. Now if you speak to them, you must speak to them in Afrikaans, even English they don't know very well. (Interview with Refugee Parent 9, 2011)

Another parent said his French-speaking son had difficulties learning English at first, but eventually adjusted:

Yes, at the beginning it was difficult, for the child to interpret, but the principal said I should not worry because it was about the language. It was a problem but soon afterwards my son spoke very good English; even better than me. (Interview with Refugee Parent 8, 2011)

It seems that although refugee children experience difficulties learning in Afrikaans or English in Cape Town, they do not take long to learn these languages. This coupled with the fact that NGOs such as ARESTA and the Somali Association for South Africa provide English lessons for child refugees makes it easier for children to adapt. The Advocacy Officer from ARESTA explained:

So what we do is, we bring them here to teach them English if they have problems. We also have a programme, not in schools, but in one school. We are taking it as a pilot project at Maitland High. We have helped them to recruit special teachers that can help learners in French where they do not understand the English. In other schools, we have advised them to have English proficiency at the entry point so learners, in order to start classes, should undergo some classes. (Interview with ARESTA Advocacy Officer, 2011)

The deputy-principal of a school in Cape Town confirmed that there are extra English language classes that run between 3pm and 5pm everyday (*Mail and Guardian*, 04.11.2011). She also commented that Zimbabwean and Rwandese pupils cope much better than those from French-speaking countries such as the Congo when it comes to learning in English and adapting to the South African curriculum (Interview with Deputy-Principal from a school in Cape Town, 2011).

5.1.5 Family and community level factors promoting access for child refugees

When refugees move to South Africa, they do not live in isolation from locals, but in their neighbourhoods. In recent years, there have been xenophobic attacks against foreigners in South African cities such as Johannesburg and Cape Town. A number of organisations have stepped in to bridge the gap between locals and foreigners (including refugees) promoting a culture of tolerance and acceptance. This section looks at factors at the family and community level which may promote access to schooling for child refugees.

Communities accept refugees

Without a secure place to live, it would be difficult for refugee parents to send their children to school. Refugees interviewed in the course of my research indicated that they successfully settled into various parts of Cape Town and were not afraid that their children would be discriminated against at school. The Advocacy Officer at ARESTA pointed out that most refugees reside in the Southern Suburbs of Cape Town. He said:

Most of them stay in the Southern Suburbs: Retreat, Maitland in the coloured or white communities because of their safety. There are very few refugees that stay in the townships. Yes, very few. (Interview with ARESTA Advocacy Officer, 2011)

¹His statement was confirmed by parents that I interviewed. Two refugees said that they lived in Retreat and Rondebosch East (Interviews with Refugee Parent 1 and Refugee Parent 2, 2011). The refugee living in Rondebosch East commented that:

¹ I would like to note that the use of the terms "coloured or white" is the language of the respondents and not my interpretation.

My area is mostly White and coloured people. Most coloureds are Muslim. I remember I used to stay in Wynberg. That place is white people who lived far from our house. The place where I'm staying now; our neighbour is coloured and we talk. We talk about life. It's ok. (Interview with Refugee Parent 2, 2011)

Other refugee parents in my study stated that they lived in Kuilsriver, Diep River and Brooklyn. They also said they had good relations with their neighbours. One mother described Diep River as a safe neighbourhood:

I can stay there. It's a nice area. No criminals, thieves, people disrupting you. We are at peace. I have stayed in Diep River for 3 years with no problems. My neighbours are white people and coloured people. (Interview with Refugee Parent 5, 2011)

Another refugee parent indicated that it is necessary to understand how to speak to people of different cultures. He said:

You see my English is not very good but you must know how to talk to the people. You must know how to transmit your idea or things you've gotten from other people so that people can understand you. One day I was looking for a place to rent and I met a coloured lady. I spoke to her nicely. You must be open with people and you can receive from them too. A good answer and people can give you consideration for what you need. (Interview with Refugee Parent 8; 2011)

The *Mail and Guardian* (11.11.2011) quoted the general secretary of the Migrant Community Board of South Africa who said:

Migrants often settle in areas where access to internet and fax facilities was available to assist them in finding employment. (*Mail and Guardian*, 11.11.2011)

From this statement and refugee parents' responses one can deduce that refugees and other migrants consider a number of factors when deciding where to live. These include safety, acceptance by the community, and proximity to employment or means of finding employment in Cape Town. Acceptance by the community is important because it suggests how their children may be received in the schools.

Some refugees navigate towards communities with their fellow countrymen. It appears that integration is made easier when refugees are able to live amongst people from their country of origin. A refugee from the Democratic Republic of Congo said:

I found a community of some of our friends and our brothers. My integration was easy. It is a Congolese community. (Interview with Refugee Parent 8, 2011)

Integration of refugee and local communities is also encouraged by local NGOs such as ARESTA.

ARESTA's Advocacy Officer stated:

The reason for the discrimination is lack of awareness. Lack of awareness about xenophobia in townships. Most people in the townships are not aware of what happens in their environment so we realized the need to go into these communities with peer educators. (Interview with ARESTA, 2011)

²In this case, ARESTA works to create awareness in communities about refugees and the importance of tolerance and integration.

5.2 Factors hindering child refugee access to schools in Cape Town

The Department of Basic Education Reports do not distinguish between South African children and foreign children, but they help to paint a picture of access to schools. The picture presented by the Department of Basic Education gives an indication of the situation of access for child refugees in South Africa. The 2009 General Household Report focused on schooling and included a section on "out-of-school" children who are "children in the official school age range who aren't enrolled in either primary or secondary school," (Department of Basic Education, 2009: 11). The Report observes that although "no money for fees" was a dominant reason for children being "out-of-school", the number of people that identified this as a reason declined between 2002 and 2009. In 2009, 48 % of children attending schools indicated that they did not pay fees (Department of Basic Education, 2009: 11). Most of these children either attended schools with a no fee policy or they attended fee-paying schools but they could not afford to pay and therefore qualified for fee exemptions (Department of Basic Education, 2009: 11). Overall, 670 000 children between the ages of 7 and 18 were not attending school in 2009 (Department of Basic Education, 2011b: 10). Although this is a high number of "out-of-school" children, it decreased from 860 000 in 2002 (Department of Basic Education, 2011b: 10).

The CoRMSA Report (2010) revealed that asylum seekers and refugees often find themselves outside of the public education system. They are not able to gain access to schools in South Africa for a number of reasons. My study shows that despite the possibility of fee exemption the inability to pay fees emerged as the most prominent barrier to access. Other factors include the effects of the Department of Home Affairs documentation process on socioeconomic standing of refugees. The CoRMSA Report (2010: 27-39) also highlighted refugee parents' difficulties accessing documentation

² A more nuanced analysis would probably reveal that the facts around xenophobia are more complex. In this case, xenophobia is discrimination towards groups of people who may be within or outside a society, but not considered part of that society (Human Sciences Research Council, 1998).

and incidences where schools deny admission to asylum seekers with permits due for extension. In his study, Tanga (2009: 28) found that at the school level, school officials sometimes turn refugee children away on the basis of language difficulties, lack of proof of accommodation, unaccompanied children without a parent or guardian, lack of knowledge about fee exemptions.

A study conducted by the University of Johannesburg's Centre for Education Rights and Transformation in rural, urban and township areas of Gauteng, Limpopo and the Western Cape found that:

The cost of education, ignorance of the law among school and government officials, a lack of awareness among migrants about their education rights, absence of documentation, and xenophobic or discriminatory practices in schools stopped refugee children from accessing schools. (*Mail and Guardian*, 28.10.2011)

A representative from the Somali Association for South Africa (SASA) commented that the Somali community faces a number of difficulties in accessing schools too. These include their inability to pay fees and their lack of knowledge about the South African education system. He said:

We have realized there is a huge need for children and adults. It has been very alarming and appealing to us that the children when they come here they have a huge challenges in going to school. You know, finishing successfully – many parents do not send their children to school for various reasons – economic reasons; or the area they stay...the assistance they get from the schools. Sometimes they don't understand the system. They go late to schools in the area where they are and the schools will say the school is full, go somewhere else. (Interview with Somali Association of South Africa, 2011)

The barriers to accessing school education mentioned by CoRMSA, the University of Johannesburg and Somali Association of South Africa are corroborated by independent Government findings. The Department of Basic Education General Household Report (2009: 13) investigated reasons for children's non-attendance to schools. In 2009, 28 % of respondents indicated that they had no money for fees; 15 % did not see the value of education; 7 % failed to perform well in school (Department of Basic Education, 2009: 13). Although the Department of Basic Education General Household Report (2009) does not distinguish between South Africans and refugee children, the findings reveal factors that may also affect refugee children's access to schools in Cape Town. I must point out that all respondents in my study emphasized that refugees "value" education but may fail to access education for other reasons, some of which I have listed above.

ARESTA advises the Department of Basic Education and Home Affairs on policy gaps. There needs to be greater coordination between these departments with regards to child refugee access to education. Without records of how many child refugees are in the South African education system or

the Western Cape education system, it is difficult for the Department of Basic Education to devise a comprehensive plan to provide them the much-needed support. Knowledge of how many refugee children are in the system would also make it easier to plan how to assist them with integration into the South African system. Without such a plan, even if refugee children gain entry into schools, they might struggle to stay in the system.

Using my analytical framework, I now summarise the factors hindering access to education and why some refugees fail to send their children to school. The factors include:

- Legislative and Policy-related factors
- State/Government's promotion of access to education
- Socioeconomic factors
- Factors at the level of the family/community level.

I used a Rights Based Approach when I analysed the data by highlighting the gaps in administration of policies promoting refugee children's access to schools in Cape Town.

5.2.1. Legislative and Policy provisions hindering access

A common thread throughout my findings is the fact that there are a number of provisions in legislation and policies that are designed to promote refugee children's access to schools. For some refugee parents, these provisions make it possible for their children to go to school. Despite this observation, there are some sections of legislation that create difficulties for refugee children when they seek to access schools. The CoRMSA Report (2010) accentuates contradictions between the South African Schools Act on Provisional Admission (1996) and Section 39 of the Immigration Act. Many schools rely on the Immigration Act and its policies which means that they may opt for the exclusion of what may be termed "illegal immigrants" from accessing services. Asylum seekers with legitimate claims for refugee status may be classified as "illegal immigrants" if their applications are rejected or if they have not yet received their documents. This inevitably affects some refugee children's access to schools.

The Refugee Policy (1998) is criticized by ARESTA as an "open policy" which has flaws. ARESTA's Advocacy Officer said:

The Refugee Policy is an open policy and it has a lot of gaps. It does not address some of these issues. Now apparently, they are making an amendment with some arguments that will affect refugees and we are making submissions again. So how are they going to survive? There is a policy of urban refugees with the concept of

integration in South Africa. But this is not working. Refugees in townships that set up businesses are harassed. So, even those that are able to make it face challenges of tuition, and challenges after school with employment. (Interview with ARESTA's Advocacy Officer, 2011)

The main issue with the Refugee Policy (1998) is that it assumes refugees and asylum seekers easily adapt to South African society. The biggest challenge emerging from the data is that it is difficult for asylum seekers and refugees to obtain documentation from the Department of Home Affairs. This affects refugees' ability to meet their basic needs (employment and accommodation) in order to focus on finding schools for their children. It also emerged that even with Home Affairs documentation; refugees have difficulties accessing services because their papers are not recognized by service providers. Schools sometimes do not recognize or accept refugee documents.

In this vein, ARESTA's Advocacy Officer added that:

The big challenge is that some institutions that provide services ... they don't recognize Section 22 documentation. It affects these children. Where they could have received some kind of assistance, they do not get it because of the kind of documentation they are carrying. (Interview with ARESTA's Advocacy Officer, 2011)

If children's documents are not recognized by education institutions, they are not able to attend school. Perhaps awareness sessions should be carried out, explaining that refugee identity documents are legal documents issued by the South African government.

The director of the Project for the Study of Alternative Education in South Africa, Neville Alexander said:

There is huge gap between policy and the practice of that policy. Policies must also reflect the changing context and address ways of achieving quality public education for all ... Often to do this we must unite and continue the struggle. (*Mail and Guardian*, 04.11.2011)

The *Mail and Guardian* (04.11.2011) reported that Dr. Alexander called for "a concrete programme of action based on careful analysis, [one] that unites the poor and marginalised regardless of national origin". His exhortation brings to the fore gaps between clusters of Education and Refugee policies and the need to (in his words) "synchronise" policy. The Advocacy Officer at ARESTA added that:

The Department of Education does not have a policy on refugees neither do they have the statistics. One of the most important things I had actually thought is I expected the Department of Education to have a policy in place since we have so many refugee learners in schools across the country. You have to have the statistics so that you know how you can assist. But they don't have that. We've tried to ask for that. I know there is a colleague who is

doing her PHD study on that. We went to the Department of Education and they didn't have a national policy on child refugees. (Interview with ARESTA Advocacy Officer, 2011)

After analysing some key of the Department of Education's policy documents it became apparent to me that statistics gathered by the General Household Survey (GHS) or other researches did not have data about refugee children. According to ARESTA, this poses a challenge when trying to develop strategies to promote access to schools for refugee children.

In another article, the *Mail and Guardian* (11.11.2011) cited Kenneth Tafira, a lecturer at the University of the Witwatersrand who criticized the use of language such as "illegal aliens" in policy documents, including the South African Schools Act (1996). Such language may lead to the discrimination of refugee children because they are seen as criminals not to be included in the education system.

It also emerged from my study that refugees are not aware of their Constitutional rights and South African Government policies permitting their children to attend school in South Africa. Even where they were aware, they did not have a voice to raise their concerns. A refugee from the Democratic Republic of the Congo said:

You can't know because if I know that the Constitution says this and I go to a school so that I ask for my children and they say no...you're not allowed to send your kids to this school because of that, I just keep quiet. Yea, foreigners can't complain. (Interview with Refugee Parent 1, 2011)

The *Mail and Guardian* (28.10.2011) noted that parents do not have confidence in the government to promote their rights to access education. The Centre for Education Rights and Transformation found that:

The majority (of participants in the research) said that even if they fully understood their rights, they did not have confidence in the government's ability to fulfil their right to free, compulsory basic education. (The *Mail and Guardian*, 28.10.2011)

Two issues come to the fore. Firstly, even when refugee parents know education policy related to access, school administrations still wield the power to follow policy or not to follow policy. This disjuncture undermines their confidence in Government to protect their rights to access education for their children.

5.2.2 Socio-economic factors hindering access

The lack of resources amongst refugees and asylum seekers impacts on the parents' ability to pay fees and to meet their families' basic needs in South Africa. A senior researcher at the African Centre for Migration and Society pointed out that scarcity of resources is not unique to refugees only. He said:

There are broader issues to consider about the overall scarcity of resources and the problems of getting poor S.A. citizens into decent schools. I think the problems that apply to the poor generally explain 90 percent of the problems refugees face. Our statistical evidence suggests that refugees on aggregate are neither advantaged nor disadvantaged compared with citizens. They face serious challenges and discrimination, but these are often overcome by superior education and experience. (Interview with African Centre for Migration and Society, 2011)

Whilst my focus in this section is on refugees and asylum seekers, I would like to stress that many of the challenges associated with socioeconomic stress amongst refugees are also experienced by South African citizens. This is partly a result of the history of inequality in South Africa's education system.

An important theme is the issue of Home Affairs documentation for refugees and asylum seekers in South Africa. This factor is critical because without proper documentation refugees face a number of socioeconomic challenges such as unemployment of refugees, inability to pay fees and find accommodation. Notably, both refugees and representatives of NGO and community organizations identified this as a major hindrance for refugee children's access to education. Handmaker and Parsley (2001) and Landau (2006) also identify the Home Affairs documentation process for refugees as a barrier to child refugee access to education.

In a study of refugees in the United States, Kan and Lin (1986 in Walker, 1988) found that Hmong refugees' socioeconomic status prior to exile contributed to their economic success in countries of settlement. My findings differed somewhat in that the situation of refugee professionals in South Africa with nursing or other professional is more complex and in some instances they are unable to find employment in their area of expertise. This might be because they are not able to get employed without Home Affairs refugee/asylum documentation, or their qualifications are not recognized in South Africa.

Employment Issues

Limited employment opportunities for refugees impacts on their ability to earn an income, which in turn results in a number of challenges including their inability to pay school fees (as well as pay for

housing and transport costs, or buy food). Although legislation states that with asylum documentation and/or refugee status refugees may legally be employed in South Africa, refugees still face challenges finding jobs – even when they are skilled professionals with qualifications. These include situations where employers do not recognize qualifications from some countries. A nurse from the Democratic Republic of the Congo described his experience:

In the newspapers a month ago, they were talking about asylum seekers that to find a job with these [refugee] papers is not easy. It's not easy. More so for me. I'm a qualified nurse. What I'm telling you is my experience. It's like that. The government doesn't want me. (Interview with Refugee Parent 2, 2011)

Another refugee trained in IT also had a similar experience. He said:

In South Africa our papers or qualifications from our country cannot be easily accepted here. We need to study again to get the qualifications in order to get better jobs. (Interview with Refugee Parent 8, 2011)

Without Home Affairs' documentation, it is even harder for refugees to get jobs. One refugee who has been waiting for more than four years for documents said:

I have been here for four years. I keep going back to Home Affairs and nothing. No papers for work. Without papers, you're not gonna get the job. The papers they give us are temporary - for three months. But at the job, they want papers for two years. (Interview with Refugee Parent 4, 2011)

Aside from documentation problems, another barrier to finding employment is the English proficiency requirement for most jobs. Three refugee parents agreed that this was a big challenge for them. One refugee said:

The problem is English. Especially for getting jobs. (Interview with Refugee Parent 3, 2011)

ARESTA's Advocacy Officer highlighted that although some refugees run their own businesses, their income may not necessarily be enough to meet their needs. A refugee running her own business with her husband expressed a similar view:

As a refugee I can say that God helps us... because you know; it's not a big shop and what we make is not enough because my family is too big. (Interview with Refugee Parent 9, 2011)

Inability to pay school fees

Without gainful employment or other means of income, many refugees struggle to pay tuition for their children. The CoRMSA Report (2010) identified as a challenge the fact that there are a limited number of no fee schools for refugee parents. Even where some schools offer fee exemptions, refugee parents may not be aware or discouraged from applying by school administrations (CoRMSA Report, 2010: 127). This also points to issues discussed under the section "legislative and policy

factors” where implementation of education policy promoting access is at the discretion of school authorities.

The South African education system caters for them by not requiring them to pay fees. Basic education is provided to them like any other child. This is not specifically an arrangement for refugee children, it applies to all children. Dryden-Peterson (2003) and Karanja (2010) also note that inability to pay fees makes it difficult for child refugees to access schools in Uganda and Kenya. Quint (2009) had similar findings in South Africa.

Government has put a number of mechanisms in place to support refugees who cannot pay fees. These include fee exemptions and the introduction of no fee schools. Karanja (2010: 147) had similar findings in Kenya where Government introduced free education for refugee children but parents were not aware. In my findings, some refugees expressed that they were not aware of fee exemptions, whilst others said that they did not have confidence that schools would grant them fee exemptions. Quint’s (2009) Cape Town research project found that some schools charge refugees higher fees than locals and fee exemptions are not available to refugee children. The availability of fee exemptions is a factor promoting access to schools for child refugees, but sometimes refugee parents are not aware or cannot access this right to ensure their children’s access to the schooling system when they cannot afford school fees.

A guardian of two refugee children indicated that because he did not have a job he could not pay fees. He stated:

The first problem is to get a job is difficult, and if you’re not working it’s difficult for you to pay school fees. More especially for me. (Interview with Refugee Parent 9, 2011)

A mother who failed to pay fees for her eldest daughter expressed fear because now she needed to enrol another child at the same school. She said:

The problem I have is from last of last year. I take my daughter to high school but I never paid a cent. I cannot go to ask about my son and how he will go into primary, because I know I never paid anything. I am afraid if I go there they might arrest/harass me or chase away my son. (Interview with Refugee Parent 9, 2011)

The University of Johannesburg’s Centre for Education Rights and Transformation had similar findings and stated:

Refugees sometimes received threatening letters from debt collectors about unpaid fees, leaving them in fear of legal action, being denied schooling or being deported, the study found. Students would sometimes stay home

for a year to help around the house so that their parents could earn another year's worth of income before they returned to school. (*Mail and Guardian*, 28.10.2011)

A working refugee father explained that he expected his son's public school fees to be cheaper than private school fees but he still found it difficult to pay. He said:

People told me that public school the fees are not expensive; it is less than that of the private school. But we are struggling to see money because sometimes they ask for money in the middle of the month. But as we are working we are waiting for money. (Interview with Refugee Parent 9, 2011)

According to the deputy-principal of a school in Cape Town, some parents claim not to be able to afford fees, but live extravagant lifestyles.

The school only receives one-third of the total fees from parents. It is impossible to run the school this way. And it's not because the parents are underprivileged. I think they just do not care enough for their children's education. They come here on open days in fancy cars, buy their children I-Phones and fail to pay fees. There is something wrong with this picture. But there are some children who struggle event to bring the correct attire for sports such as tennis. I come dressed in my tackies and tennis clothing to teach them how it should be done. (Interview with Deputy-Principal of a school in Cape Town, 2011)

It is difficult to determine which refugee parents genuinely cannot pay fees because many of them face legitimate problems getting employment and sustaining their families. Furthermore, the South African School's Act (1996) clearly states that children cannot be turned away because they cannot afford to pay fees. While some refugee parents who can afford school fees claim they cannot afford to pay because they prioritise other household expenses, my findings suggest that a very small number of refugees fall into this category.

Competing costs

All the refugee parents I interviewed also said that they face difficulties paying for food, accommodation, school uniforms and transport fares for their families. One refugee expressed that she could not afford to buy food and provide for other needs for her family:

Now my problem is no money to pay for the house, no money to pay food because of no job. (Interview with Refugee Parent 6, 2011)

Another mother similarly described her situation:

We can eat the bread during the day and in the night you take something and you sleep. Like that, we survive. (Interview with Refugee Parent 9, 2011)

Without a place to stay, refugees cannot focus on getting their children into schools. One mother said:

The home is the first one that you look for. Because if you don't have somewhere to stay, you don't know if you can send them to school. (Interview with Refugee Parent 1, 2011)

The Department of Basic Education Plan of Action (2003a) acknowledges that "poor" learners incur additional costs such as transport because they find cheaper accommodation further away from schools that admit their children. At a grassroots level parents mostly consider accommodation that is affordable. Parents in poor communities tend to first seek affordable accommodation and only once this is secured do they worry about schools for their children.

Although it did not come up in my interviews, refugee children from poor families are likely to struggle to afford other expenses associated with schooling. For example, the Department of Basic Education Plan (2003a) acknowledged the additional cost of school uniforms. It stated:

Although school uniforms assist with equalising learners from different socio-economic backgrounds, a policy is needed to ensure that school uniforms make access easier for disadvantaged learners and not more difficult. (Department of Basic Education, 2003a: 26)

5.2.3 Factors at the level of the state that hinder access

It emerged that there is need for more state support at the school levels to cater for refugee children. The deputy-principal of a school in Cape Town said her school took the initiative to provide daily extra English classes to refugee children, but there was no support to keep the program running. The *Mail and Guardian* (04.11.2011) said:

The Deputy-Principal and English teacher lamented the lack of state support they received. (*Mail and Guardian*, 04.11.2011)

In my interview with the deputy -principal of a school in Cape Town, she also expressed the need for the state to step in to provide more resources for schools with refugee children. She observed:

In fact, the District refers refugee children to Maitland, but no support is provided for these children when they come here. We are struggling at the moment because it is one thing to allow them to attend classes, and another for them to pass. This is affecting our results because most of the students, especially from the Congo fail to cope with the curriculum. (Interview with deputy-principal of a school in Cape Town, 2011)

Previously I found that there is Ministerial commitment to promote child refugee access to education in South Africa. However, there is need for this commitment to translate into increased educational resources for school with significant numbers of refugees. The deputy-principal interviewed expressed concern that there was lack of support in the form of learning materials and

human resources to provide child refugees with much-needed extra English and curriculum classes. This has a negative effect on refugee children's success in the South African schooling system.

5.2.4 Factors at the school level affecting access

At the school level there are a number of barriers to access such as lack of resources to bridge the learning gap for child refugees. Many of them hinge on the gap between policy and practice because school administrators do not follow legal and policy guidelines. School-level bureaucrats (principals or other school officials) exercise discretion in how they apply policy. This leaves room for misinterpretation, lack of knowledge about policies, or disregard for policy provisions. Language and curriculum also affect child refugees' access to schools since many of them are not fluent English or Afrikaans speakers or accustomed to the South African education system.

Schools in South Africa sometimes request refugee parents to produce birth certificates and clinic cards before admitting their children. This bars refugee children from accessing schools. Nkomo (2005) argues that children who do not live with their biological parents have a lesser chance of being in school. This inevitably affects unaccompanied refugee children or those now living with guardians and not their biological parents.

Once again South African law stipulates that refugee children cannot be turned away from schools because they do not have identity documentation. This legal provision may be seen as a factor promoting refugee children's access to schools, but application of this law is at the discretion of the school authorities. Karanja (2010) identified the absence of children's documents as challenge for refugees in Kenya too.

Lemon (2008) identified other documents that schools request prior to admission. He identified electricity bills and rent statements as proof of residence sometimes required by school authorities (Lemon, 2008: 110). This means that refugee parents who might be staying with relatives or do not have their own accommodation may not be able to access schools for their children.

School administration and admission procedures

White Paper No. 5 of the Department of Education (2001a) (quoted by Department of Basic Education, 2009a: 4) established "a national system of provision of the Reception Year for children aged 5-7," stating that children enrolling for Grade 1 should be between the ages of 5 and 7. Application of this policy may lead to the exclusion of refugee children whose education has been

disrupted by war or other reasons. For instance, when tests are carried out to ascertain what level a refugee child is, their age group may not match the grade. If an 8-year-old child has the educational development of a Grade 1 class, they may not be able to enrol at a school because they are deemed too old for that.

The deputy-principal from a school in Cape Town said that many refugees that apply to their school are too old:

Many of the kids that come as refugees are too old for their grades. After years of teaching you can see that they are old. They should not be in certain classes. However, we recently learnt this year that all children should be given access and none should be turned away. (Interview with Deputy-Principal of a school in Cape Town, 2011)

The Cape Town Refugee Centre (CTRC) advised that because school administrators and other staff often do not have knowledge of education and refugee policies, there was a clear need to educate principals and teachers (*Mail and Guardian*, 04.11.2011). A social counsellor at the CTRC said:

The need is to educate teachers and principals that children had a "fundamental right" to education under the Children's Act and the International Convention on the Rights of the Child that South Africa has ratified. It doesn't matter if they are documented or undocumented. (*Mail and Guardian*, 04.11.2011)

A representative of the Co-ordinating Body of Refugee Communities in Johannesburg, Jacques Kamanda, said that sometimes school principals deliberately stop refugee children from enrolling in their schools (*Mail and Guardian*, 11.11.2011). He said:

Principals deliberately make it difficult for refugee or migrant children to be admitted to their schools. I have heard of this happening so many times I can't even count them. (*Mail and Guardian*, 11.11.2011)

One refugee mother described how her sister's child ended up being denied access to a school in Cape Town because of bureaucratic inflexibility in the application of education registration and admissions procedures and rules. She said:

My sister has a six year-old son. You know as refugees we like to help each other. So I went to Maitland to apply for her child at the school. They refused to give me the place. They gave us the forms. We got to fill the forms and did everything they were asking. They said we must bring the clinic card. That clinic card - we explained that we will never get it because no one remembered to leave Congo with it. You know the time we were running from the war. Many things you leave at your house. So you can't remember everything. You just remember your heart. Some people even forget their children. We explained to them that we don't have it. They said go to the police station and get an affidavit. They gave me one. I took it back to the school, but they said no, "we need a clinic card." We explained for them...everything and they said that they must know if the child has sickness or not. We went to the clinic and the nurses asked what is going on? We told them the school sent us to get a card. They said the child is too old to get the injection and they said we must go and tell the school that now the child

is too big. We went to explain to them but until now there has been no progress. (Interview with Refugee Parent 9, 2011)

She added that the school uses other admissions criteria including pupils' results and identity documents. Refugee students often do not have these previous results or identity documents. Sometimes South African children also do not have these documents. Without them refugee children face the possibility of exclusion from the school system. The deputy principal added:

We ask for the pupil's last results and identity documents but it is a challenge getting these from refugee parents. ID's and reports are not authentic and we have the same problem with black South African students too. (Interview with Deputy-Principal of a school in Cape Town, 2011)

A representative of the Somali Association for South Africa revealed that Somali parents were often turned away from schools and felt they could not challenge school authorities either because they did not understand that their children had a right to access schools. He said:

That is the communication in the system of education. So, parents don't understand their rights so they don't understand that their children must be accepted by the school because sometimes the school turns them down or they say we want a birth certificate or something else which is not supposed to be stipulated. After that they (the parents) just keep their children in their homes. (Interview with the Somali Association of South Africa, 2011)

This is a critical issue and a common problem for refugees because many do not have all their children's documentation such as birth certificates and clinic cards because they leave situations of war or conflict, sometimes without time to plan accordingly and carry all documentation.

Language and Curriculum

Issues surrounding the language of instruction at schools and the curriculum create barriers to access for child refugees in Cape Town. Preston (1991) identified this as a problem in other countries of settlement for refugees including the United States of America, Canada and Britain. It is difficult for children who are not fluent in English or other languages of teaching and learning to quickly adjust to the South African schooling system. It is not enough for children to be admitted in the South African education system. They are not able to benefit from the teaching and learning process without good English proficiency. There is need for greater support in the form of lessons in English and other languages of teaching and learning, for refugee children to quickly adapt to the South African education system.

Lack of English proficiency amongst refugee parents impacts on their ability to learn more about the schooling system or make enquiries about their children. Thus, they are not able to press for access to schools where it has not been granted by school authorities.

Somali refugee children seem to be more disadvantaged than most. War has interfered with their education and their education system back home is very different from the one in South Africa. A representative of the Somali Association for South Africa said:

The saddest case is children who, because of the insecurity of war have moved around a lot and have been without school for years. Some of them for 14 or 15 years have never been to school. They start to go to school up to Grade 4 or 5 and after that they stop. In which case, what they have learned in those few years has been in the (Somali) local education system and local language. So when they come here, that counts for nothing. (Interview with the Somali Association for South Africa, 2011)

It is difficult for Somali refugee children to adjust to the South African school system because many of them have been out of school for a number of years and do not fall within the accepted age-groups for allocation into primary or secondary school grades. He added that when they eventually want to restart school, assessments show that they are not educationally ready to join classes with children of the same age. He said:

And for somebody who is 14 years to go to school, they assess and see that he's only suitable for grade 5. We have a case where a father took his kid who was 16 years and when they assessed they said he should do Grade 6, and when they said he should do Grade 6, they said he was too old to sit with the kids in Grade 6. So, that was one of the areas we try to assist. (Interview with Somali Association for South Africa, 2011)

In the previous section, the deputy principal from a school in Cape Town pointed out that some refugee children are too old for certain grades. The children are often very behind when they do eventually start formal schooling and this affects their results. She lamented that there is very little support to help child refugees but her school continues to admit them:

There are so many stories of students who start and never finish because they keep failing. We are frustrated however, with all the people who come in and recommend refugees to apply to Maitland because no one is supporting us to help the pupils. And at the end of the day, the pupils suffer because they aren't given enough attention. They need help catching up with the South African curriculum. (Interview with Deputy-Principal from a school in Cape Town, 2011)

The advocacy officer at ARESTA explained that some child refugees come from education systems with a different curriculum:

Many foreign students come from the French background which has a slightly different curriculum. They adjust easily. Though it takes them a while, but after adjusting they do well. (Interview with ARESTA Advocacy Officer, 2011)

South African education policies permit schools to teach in local languages. This can pose problems for refugee children who are not conversant in local languages. In Cape Town, isiXhosa is the third language (after Afrikaans and English) mostly used as the language-of-teaching. The advocacy officer at ARESTA said:

The other issue is language. Much as they (refugees) would like to live among local communities; language barriers come into play because locals are not familiar with learning in local languages which would have made it easier for them to integrate. They do not choose to study in township schools because they speak more local languages most of the time. (Interview with ARESTA Advocacy Officer, 2011)

There are diverse views about the influence of language on refugee children's access to education. In the section where I looked at language factors promoting access to education for child refugees, I found that the children quickly adapted to learning in other languages. Evidence provided by refugee parents in my study suggests that refugees may prefer to send their children to English or Afrikaans-speaking schools since none of them send their children to schools that speak other languages such as isiXhosa. However, unlike other refugee children who quickly learn English, some refugee children struggle to become proficient in English, but even they improve with time. One mother described her daughter's experience:

The problem is with the first child because when we came from our country she was Grade 6, she was studying in French. When she got here, she changed and was studying in English. But now it is better. (Interview with Refugee Parent 9, 2011)

A father noted that before his son could speak English fluently, he struggled to interpret his lessons:

Yes, at the beginning it was difficult for the child to interpret...Yes it was a problem but afterwards my son spoke very-very well - good English. (Interview with Refugee Parent 8, 2011)

The deputy-principal of a school in Cape Town confirmed that refugee children sometimes struggled with English and she cited the example of one Congolese child:

Our Grade 9 results have not been very good because of this. For example, we have a Grade 11 child from the Congo who is now too old and I discovered that he did not understand a word I said. I discovered the children were translating from English to French for him to understand. He failed his Grade 11. So I'm saying these kids need preparation before they attend regular classes. However, they struggle to adjust to the curriculum especially where they do not speak or write English proficiently. (Interview with Deputy-Principal of a school in Cape Town, 2011)

It appears admitting refugee children to schools is only the first step in access. It is very important for children to be familiar with the medium of instruction and learning in order to fully access and

benefit from the education system. The deputy-principal of a school in Cape Town also pointed out that South African students have similar problems at the school:

The language problem is also common amongst black South African kids because they are predominantly Xhosa. We only have 3 Xhosa-speaking teachers. If the language of instruction and most of the pupils do not speak English, that becomes a problem. (Interview with Deputy-Principal of a school in Cape Town, 2011)

Child refugees struggle to integrate with local children

NGO representatives from ARESTA and the Somali Association for South Africa commented that child refugees find it difficult to integrate into local schools. This is for several reasons. A representative of the Somali Association for South Africa explained that there are religious and cultural differences between most Somali children and local children from Cape Town. These differences sometimes lead to discrimination against Somali children. He cited an example of a Somali girl in a school in Cape Town:

I have seen a number of children who say other school children discriminate against them as Somalis, or foreigners. You know when children come to one place and they want to play, they shouldn't feel that way. I have one student who was from a single mother and she was schooling very successfully until she became a teenager. Our culture is very different to the culture of most of the students where children propose to girlfriends or boyfriends. Some children approached her but she didn't believe in that. When she refused, one kid tried to push her and scare her off. When she complained the teacher said, "It's your word against his, we don't have evidence. Until we have evidence I don't see if there is anything we can do." She told us the kid showed her a knife and said, "Ok you don't have to become my girlfriend, you have to give me R5 every morning. If you fail this time we will remove or change your face." Her mother went to the teachers. You know her communication (in English) is very poor. The teacher said children all the time they talk and unless we have evidence all we can do is tell him to stay away from her. She was scared for her daughter and more Muslim kids; somewhere else where she thought the culture would accommodate her kids. The kid was very smart. She answered the questions in class Because she answered all the questions in class they [other children] discriminated against her and she went out of school again, which meant she lost another year of schooling. (Interview with Somali Association for South Africa, 2011)

A statement by the advocacy officer at ARESTA revealed that like all children, refugee children would rather mingle with locals they perceive to be friendly:

The interesting thing is that often refugee children do not mingle with local students. They don't. So whether it's fear, prejudice, we don't know. But when they are at school, they are playing with their foreign friends. They are in the company of foreign friends, not locals. Schools have tried to encourage them but they have said that no, they are afraid because they don't feel comfortable because local students or learners are not receptive. (Interview with ARESTA Advocacy Officer, 2011)

He stated that refugee children often make friends within their circles. Perhaps cultural differences also account for this. Some parents cited xenophobia in townships as a reason why they preferred to send their children to schools in Cape Town's Southern Suburbs. He said:

Parents are not happy to have their children study in townships because firstly, limitations, harassments and xenophobia in the townships make them prefer to send their children far away from the townships to either Coloured communities or White schools. (Interview with ARESTA Advocacy Officer, 2011)

5.2.5 Community and family levels hindering access

Refugee children are often out-of-school for years before they are able to resume their studies. This affects their chances of admission into schools because they are too old to enter certain grades. It is an important issue because disrupted schooling is a common problem amongst refugee children. Application of the policy and legislative framework does not always cater for refugee children that have missed years out of school. This issue did not come up in the literature. It might prove useful to carry out more research into methods used to bridge the gap between refugee children with disrupted education and children in stable education systems (who did not face any disruptions).

Some communities do not accept foreigners

The fear of xenophobia is another barrier to refugee children's access to schools in Cape Town. In their study, Handmaker and Parsley (2001) observed that in the past, xenophobia in South African communities has stopped refugee children from accessing school. Although refugees fear xenophobia, they also acknowledge that they feel welcome in certain parts of Cape Town. How refugees perceive the communities they live in (whether they are hostile or welcoming) affects their willingness to send their children to school in those areas.

One refugee parent described "Xhosa" people as "nice" people, but that changed during the xenophobic attacks in 2008:

The Xhosa people are nice people but during that time of xenophobia the guys came trying to kill the foreigner. They took stuff from the Somalis with shops...the guys took everything. (Interview with Refugee Parent 6, 2011)

It appears that refugees are still wary of the possibility of xenophobic violence in some South African communities. ARESTA's Advocacy Officer argued that xenophobia and discrimination in townships is due to a lack of education and awareness:

The reason for the discrimination is lack of awareness. Lack of awareness about xenophobia in townships. Most people in the townships are not aware of what happens in their environment so we realized the need to go into these communities with peer educators. (Interview with ARESTA's Advocacy Officer, 2011)

If communities are intolerant of refugees, child refugees' safety may be compromised when they commute to and from school. The *Mail and Guardian* (28.10.2011) also reported that:

Xenophobia can also pose safety concerns when pupils travel to school on taxis and trains, because girls are vulnerable to sexual abuse.

Refugee parents choose not to send their children to school

Even where there is the possibility of their children attending school, some parents choose not to do so. The advocacy officer at ARESTA pointed to the Somali community:

We have seen this in the Somali community. It's a cultural attribute. They prefer their learners to go to Muslim schools. So more of them don't send their children to public school. So compared to all refugee communities we have, Somali's have the lowest number of children in school, despite the efforts by the UN to make sure that their children are enrolled in schools. (Interview with ARESTA Advocacy Officer, 2011)

Landau (2006) corroborates this observation citing that in 2000, many Somali refugee children of school going age were out of school. It is apparent that some categories of refugees choose to protect or preserve their culture norms and values by not sending their children to school. One reason for this behaviour amongst Somali parents is offered by the representative of the Somali Association for South Africa who confirmed that Somali parents prefer to send their children to Muslim schools because these schools affirm their religious and/or cultural beliefs and practices. Practices such as teenage dating cause Somali parents to withdraw their children from schools where they were threatened or teased for refusing to date. This came up in Section 5.2.4 when a Somali girl was discriminated against for refusing to date a local boy. Her mother kept her out of school for over a year until she found a Muslim school.

The Somali Association for South Africa called for the United Nations High Commission for Refugees (UNHCR) and other organisations to assist refugee parents with integration in communities and schools:

We need proper involvement from organisations like the United Nations and the Department of Education to look into this. Because the Department of Education is just leaving vulnerable communities to go and fit themselves into the system but that is not possible from the perspective of the community in terms of their resources, communication, information they have. (Interview with Somali Association for South Africa, 2011)

5.3 The Value of a Rights Based Approach

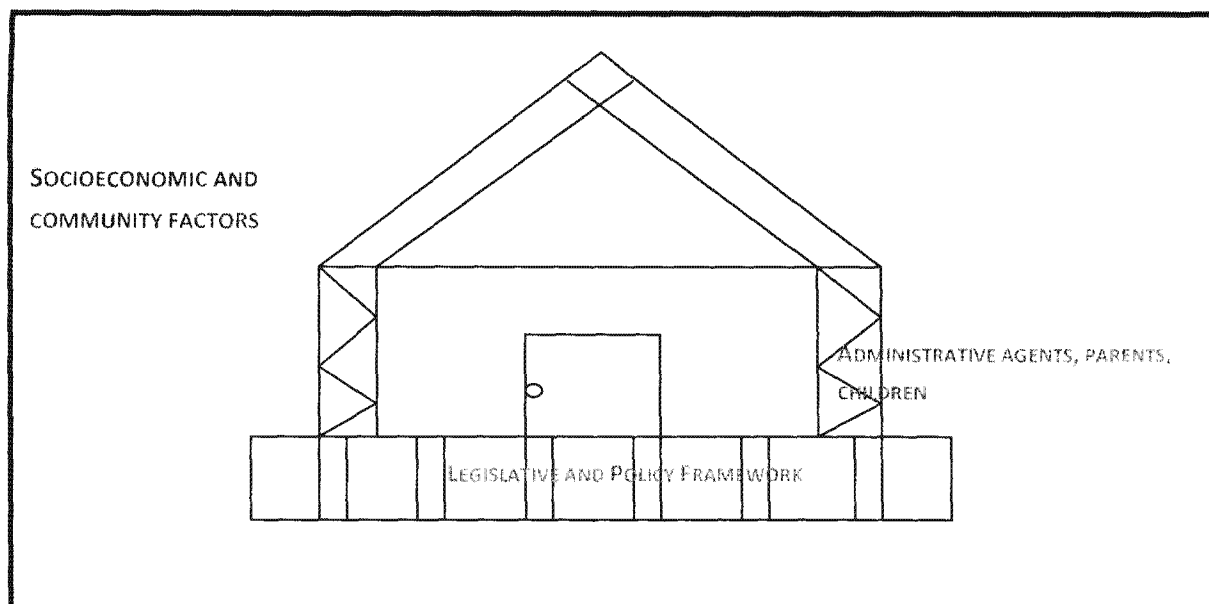
Cornwall and Nyamu-Musembi's (2006) interpretation of Rights Based Approaches identifies Government as the "principal duty bearer" of human rights. A resounding theme in my study is that South Africa's Constitution and Ministerial appointees promote the rights of all refugee children to access education. From the South African Schools Act (1996), to the Refugee Policy (1998) it is clear that child refugees' right to access schools in the Republic is an explicit right that resonates in other provisions exempting parents who cannot afford school fees. The introduction of no fee schools and encouragement of schools to accept foreigners despite difficulties with language and curriculum are other examples. These provisions attempt to accommodate refugees in the education system. Fiske and Ladd (2004) also credit the South African Government for taking steps towards achieving an equitable education system.

When a principle is enshrined in a Constitution it is an ideal which is somewhat disconnected from day-to-day practice. It nevertheless becomes a reference point for practitioners or people living in the country.

Cornwall and Nyamu-Musembi (2006) also point out that international and non-governmental organisations contribute towards protecting human rights. I noted the important role that organisations such as ARESTA, the Somali Association for South Africa, African Centre for Migrants and Society and Consortium for Refugees and Migrants in South Africa play in promoting child refugee rights. ARESTA assists refugees with integration into local communities by providing English classes for refugees and their children, whilst also educating communities on how to live peacefully with non-South Africans. The Consortium for Refugees and Migrants in South Africa monitors child refugees' access to schools in South Africa and informs key stakeholders such as the Department of Basic Education and the Department of Home Affairs where and how to address challenges that arise. ARESTA also advises Government on policy gaps, emphasizing the need for greater coordination between the Department of Basic Education and the Department of Home Affairs. Without NGO assistance and contributions, many refugee children in Cape Town would fall through the cracks of not being fluent in English or understanding curricula.

5.4 Child refugee access to education as a system made up of various parts

Whilst going through my data, I realized that the situation of child refugee access to education can be illustrated by a structure or a system consisting of the levels of factors presented in my findings. This analogy demonstrates the interrelatedness of the levels as parts of a system. All the parts of the system need to function properly in order for the system to work.



a. The legislative and policy frameworks provide the foundation for the house - which represents the legal and principled access to education. South Africa's Constitution, refugee and education policies are progressive and provide a strong foundation which should be able to support access to schooling.

b. The beams and cement that hold the structure together are the administrative agents of the policy and legislative frameworks: the relevant government departments (Department of Basic Education, Department of Home Affairs), school authorities, parents and the children themselves function according to the policies and legal provisions that the Government has already put in place. NGO's and other social sector organisations provide support to the administrative agents by highlighting issues around access and providing assistance (financial and /or other language training) to refugees and their children.

c. The structure or system is set in a socioeconomic environment and community where positive socioeconomic conditions and welcoming communities ensure that the structure is able to stand. For example, successful implementation of the policies by administrative agents, parents and children, is affected by parents' ability to earn a living in South Africa and be peacefully integrated into South African communities. Where parents are not able to provide for their children or be accepted into local communities, policy and laws promoting access cannot be successfully implemented.

The functional interplay between the above-mentioned parts of the system impacts on the following facets of the refugee child's right to education identified by Article 13 of the ICESCR: availability,

accessibility, acceptability and adaptability (Refer to Chapter 2, Section 2.2, 1966). Availability requires the presence of public schools within the South African communities that child refugees can possibly attend. Accessibility demands that educational institutions are accessible without discrimination supported by South Africa's legal and policy framework (SASA, 1996). Accessibility is both physical and economic – which leads one to assess socioeconomic factors such as ability to pay fees and admission procedures into schools administered by school principals. Acceptability refers to the curricula and teaching methods which are stipulated by South Africa's policy and legal framework. Interpretation of curricula and teaching guidelines is at the discretion of principals and teachers in schools. Adaptability acknowledges the changing nature of society and communities and also mirrors the community and family environments of child refugees

My study shows that the policy and legislative framework is the strongest factor contributing to refugee children's access to formal school education. However, refugee parents lack knowledge of their rights to education and as such, do not exercise their children's rights to education. Refugee parents are sometimes fearful and do not know how to work with their rights. Progressive education policy and legislative framework on its own does not guarantee refugee children – especially those who are poor - full access to education. One of the biggest weaknesses I have found in the system is at the level of school authorities. Further investigation is needed to determine whether school authorities are aware of policy and legislation that promotes refugee children's access to education and whether they are successfully implementing these policies.

Chapter 6

Conclusion

I set out to assess what factors promote or hinder child refugees' access to education in Cape Town. Many, but not all, refugee parents succeed in sending their children to schools against the backdrop of a comprehensive Department of Basic Education policy and legal framework which promotes universal access for all without discrimination. The South African Schools Act (1996) and National Education Policy Act (1996) are cornerstones of universal access in the Republic. However, there is a need for greater coordination between the Department of Basic Education and the Department of Home Affairs in order to identify in policy the challenges child refugees face in accessing education. For example, they have special needs that arise from difficulties in adjusting to languages of teaching and learning such as English and Afrikaans and learning a new curriculum.

Application of policy and legislative provisions is at the discretion of school governing bodies, some of whom may not be aware that child refugees have a right to access schools. Admission procedures hinder access where acceptance is dependent upon refugees' presentation of their children's identity or immunisation documents.

There appears to be a relationship between the socioeconomic background of parents and their ability to send their children to school. The socioeconomic standing of refugee parents is affected by Department of Home Affairs documentation processes. With or without asylum documentation or refugee status, it is difficult for refugees and asylum seekers to find gainful employment in order to support their families and access important services such as education for their children.

Many refugee parents cannot afford schools fees for their children. Although non-governmental and community organisations often step in to provide school fees, this is not a sustainable solution for refugee families.

Generally, the refugees I interviewed said that they and their families feel welcome in the Southern Suburbs of Cape Town, where many of them reside. However, memories of xenophobia has cast a shadow of uncertainty over their sense of safety.

The Somali community is unique amongst refugees because of their strict adherence to Muslim culture and their desire to preserve this culture amongst their children. Religious links with the Muslim community in Cape Town create opportunities for a sense of belonging. However, they struggle to adapt to non-Muslim public schools where, for example, cultural differences to issues of

dating and education have resulted in some Somali parents withdrawing their children from school. This disrupts their schooling and may lead to problems of placement if the children stay out of school for long periods of time.

Factors hindering access to education such as the inability to pay school fees, lack of documentation or language difficulties are not unique to child refugees, but are also experienced by many South African children from poor communities. South African parents from underprivileged backgrounds also struggle to pay fees and others sometimes do not have birth certificates for their children.

Steps to improve access to schooling for refugee children in South Africa are clear in policy and legislative provisions which are the pinnacle of the education system. However, dissemination of these policies is needed amongst school administrators and parents to improve implementation and realization of the policy goal for all children to attend school.

I end with a few practical recommendations that emerge from my research. The Department of Basic Education and Department of Home Affairs could produce an electronic handbook for distribution to school authorities on how to promote the successful integration of refugee children into the education system. Additionally, the Department of Basic Education, with assistance from NGOs that work with refugees, could assist schools to meet the costs of additional English or other subject classes which help refugee children to adapt to the South African curriculum. Finally, there is a need to assess school administrators' knowledge and implementation of education policies and legislation for refugee children.

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Appendix A - Background information on organisations which participated in the study

a. Somali Association for South Africa

The Somali Association for South Africa (SASA) is a community-based organisation that has worked in the Republic for more than 13 years. Established in June 1998, SASA aimed to give the Somali community a voice in South Africa. It is the oldest and largest immigrant organisation in South Africa and works with the Somali Community in Johannesburg, Durban and Cape Town. Its core objectives are to:

- Organize and energize the Somali community.
- Educate Somalis that are new to South Africa.
- Build unity through a message of peace, reconciliation and tolerance.
- Facilitate capacity building by mobilizing resources within and outside the Somali community.
- To promote language skills and higher education amongst youth.

b. ARESTA

The Agency for Refugee Education, Skills Training and Advocacy (ARESTA) is a non-profit organization working in Cape Town to contribute towards the successful integration of asylum seekers and refugees in South Africa. Its objectives are to:

- Promote and facilitate self-reliance and sustainable livelihoods activities amongst refugees
- Promote refugee rights awareness and advocate for access to services
- Promote community education to prevent and address racism, discrimination and/or xenophobia.

c. African Centre for Migration and Society

Previously referred to as the Forced Migration Project (FMP), the ACMS is an independent, interdisciplinary and internationally engaged Africa-based centre of excellence for research and teaching. Its research shapes global discourse on human mobility, development and social transformation. It is based at the University of the Witwatersrand.

d. Consortium for Refugee and Migrants in South Africa (CoRMSA)

CoRMSA is a non-profit, non-governmental organization committed to the promotion and protection of refugee and migrant rights. It comprises member organizations including Amnesty International's South Africa Chapter, The Black Sash, Centre for the study of Violence and Reconciliation, Christians for Peace in Africa and the Durban Refugee Service Providers Network. CoRMSA uses its membership network to advocate for rights-based refugee and immigration policies and laws, promote best-practice models and encourage compliance with minimum international and national constitutional standards. Its programme includes advocacy, research, public awareness-raising, capacity building and networking.

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Appendix B - Interview schedules

a. Somali Association for South Africa

Background information on the organization

- Could you briefly describe the mission and activities conducted by your organisation?
- How long has SASA operated in Cape Town/South Africa?
- Which definitions do you use for classifying refugees, and what rights do they have in South Africa?

Legislative and policy issues

- Which actors (South African or international) do you think are central to promoting and protecting refugee rights, and in particular, child refugee rights in South Africa?
- Which legislation provides a framework for child refugee access to education?
- What are some of the strengths in refugee and education policies that allow refugee children access to schools?
- What are some of the weak points in refugee and education policies and legislation which may hinder access?
- What issues arise in implementation of these policies that affect child refugee access to education?

Socio-economic factors

- How big or small is the Somali refugee community in Cape Town? What challenges do they face when they arrive and try to settle down?
- How do these challenges impact on their ability to access education for their children?
- What effect does the refugee and asylum documentation process have on access to schools for refugee parents?
- Where (which areas or schools) do refugees enrol their children (public versus private; suburban vs. townships) and why?
- Do unaccompanied Somali children face similar challenges when trying to access schools in Cape Town?

Family and community – level factors

- What factors at the community level impact on child refugee access to schools? Do refugee families easily integrate into local communities in Cape Town?
- Does integration at community levels have a bearing on integration in schools for child refugees?
- From your experiences, are refugee parents cognisant of the fact that their children have a right to primary education?

- It emerged in previous research that some refugee parents opt not to send their children to school despite being aware of this right. Are you aware of any reasons why refugee parents may choose not to send their children to school? Is it common amongst refugees from some countries or cultures and not others?

b. ARESTA

Background information on the organization

- Could you briefly describe the mission and activities conducted by your organisation?
- How long has ARESTA operated in Cape Town/South Africa?
- Which definitions do you use for classifying refugees, and what rights do they have in South Africa?

Legislative and policy issues

- Which actors (South African or international) do you think are central to promoting and protecting refugee rights, and in particular, child refugee rights in South Africa?
- Which legislation provides a framework for child refugee access to education?
- What are some of the strengths in refugee and education policies that allow refugee children access to schools?
- What are some of the weak points in refugee and education policies and legislation which may hinder access?
- What issues arise in implementation of these policies that affect child refugee access to education?

Socio-economic factors

- Where do most refugees who move to Cape Town come from?
- How big or small is the refugee community in Cape Town? What challenges do they face when they arrive and try to settle down?
- How do these challenges impact on their ability to access education for their children?
- What effect does the refugee and asylum documentation process have on access to schools for refugee parents?
- Are there success stories related to parents being able to send their children to school, is so where (which areas or schools) do they enrol their children (public vs. private; suburban vs. township)?
- Where (which areas or schools) do refugees enrol their children (public versus private; suburban vs. townships) and why?

- Do unaccompanied children face similar challenges when trying to access schools in Cape Town?

Family and community – level factors

- What factors at the community level impact on child refugee access to schools? Do refugee families easily integrate into local communities in Cape Town?
- Does integration at community levels have a bearing on integration in schools for child refugees?
- From your experiences, are refugee parents cognisant of the fact that their children have a right to primary education?
- It emerged in previous research that some refugee parents opt not to send their children to school despite being aware of this right. Are you aware of any reasons why refugee parents may choose not to send their children to school? Is it common amongst refugees from some countries or cultures and not others?

c. African Centre for Migration and Society

Background

- Could you briefly describe the mission and activities of the African Centre for Migration and Society?
- How long have you worked with the ACMS and what are some of the key issues you have come across in your research of refugees?

Legislative and policy issues

- There are debates about how to define refugees. This is with reference to the 1951 Convention Relating to the Status of Refugees and other international instruments emphasizing that refugees are persons who fear persecution and are no longer under the protection of their country of origin. Which definitions do you use for classifying refugees and what rights do they have in South Africa?
- How do the South African Constitution and government policy cater for refugees in South Africa? In particular child refugees and access to services such as education?
- What issues arise in the implementation of these policies that may affect child refugee access to education?

Socio-economic factors

- Where do most refugees in South Africa come from? What challenges do they face when they arrive and try to settle down?
- How easy or difficult is it for refugees to find jobs and sustain their families?

- How do these issues impact on their ability to access education for their children?
- What effect does the refugee and asylum documentation process have on access to schools for refugee parents?
- Do unaccompanied children face similar challenges in South Africa and how do these affect their access to basic services including education?

Family and community-level factors

- What factors at the community level impact on refugee families' integration into local communities in Cape Town?
- In your opinion, does integration at community levels have a bearing on integration in schools for child refugees?
- It emerged in previous research that some refugee parents opt not to send their children to school despite being aware of this right. Are you aware of any reasons why refugee parents may choose not to send their children to schools? Is it common amongst refugees from some countries or cultures and not others?

d. Deputy-Principal of a school in Cape Town

Background

- Do you have refugees studying /attending your schools?
- What nationalities of refugees are represented at your school?

Factors at the school level

- What criteria do you use when assessing school applications for admission?
- In your opinion, how and why have some refugees managed to send their children to your school?
 - What factors promote such access?
 - Are refugee children who attend your school easily integrated?
 - How do they cope with changes in curriculum?
 - How do they cope with language differences?
- In your opinion, what factors hinder child refugee access to schools?
 - Are most refugees able to afford school fees?
 - How do you deal with cases where refugees cannot afford fees?

e. Refugee parents

Background

- Would you like to share where you are from and your experiences moving to South Africa?
- How many children do you have?

- When you moved to Cape Town, what helped you to settle down?
- What challenges did you face?
- How was the Home Affairs documentation process? Did you find it easy or difficult?

Socioeconomic factors

- Are you employed? If yes, what factors helped you to get a job?
- If no, what factors made it difficult for you to get a job?
- Describe your experiences when looking for a place to live (accommodation). What factors did you consider? (safety, rent)
- Are you able to pay fees?

Factors at the school level

- What challenges do you face when you want to send your children to school?
- Do schools accept foreign students?
- Do you find that your children are accepted by teachers and other children at their schools? Do they find it easy/difficult to relate to children who are South African or from other countries?
- Describe your children's experience adjusting to the South African school system. Were they familiar with the subjects?
- Describe your children's experience learning in English or other languages. Did this pose any challenges to your child's learning process?

Family and Community level factors

- Are you aware that your children have a right to go to school?
- Are you aware of Government policies that make it possible for your children to attend school?
- Do you feel welcome in your neighbourhood or in the community where you live?
- Do you see education as important for your children?

Appendix C - List of Nvivo codes

As stated in the methodology chapter, I use Kelly, Lungwangwa and Sililo's (1998) categories of factors affecting school attendance to classify my data. I used Nvivo software to create two trees: Factors promoting access to schools and Factors hindering access to schools. Each tree had sub-categories reflecting the categories presented by Kelly, Lungwangwa and Sililo's (1998) levels of factors. I added another sub-category to the list of factors provided by Kelly, Lungwangwa and Sililo (1998): **Legislative and Policy-Related Factors**. The following table represents the trees as created in Nvivo and the sources of data:

Factors promoting access	Factors hindering access	Category of documents/respondents
Legislative and policy-related factors	Legislative and policy-related factors	-RSA Constitutional provisions, policies of the Department of Basic Education and Department of Home Affairs.
Socioeconomic factors linked to socioeconomic climate.	Socioeconomic factors linked to socioeconomic climate.	-Departments of Home Affairs and Education policy and other documents and --NGO representatives (ARESTA, Forced Migration Project and SASA)
Factors at the level of the education system	Factors at the level of the education system	Department of Education Policy and other documents
Factors at the school level	Factors at the school level	Deputy-Principal of Maitland High
Factors at the family and community level	Factors at the family and community level	Parents of children attending and not attending school. -NGOs working with refugees (ARESTA, Forced Migration Project and SASA)

Themes which emerged from the data were categorized according to the levels of factors tabled above. For example, within the level of **socioeconomic factors** under *Factors hindering access*, there emerged the theme: **Inability to pay fees**. Like other themes, a discussion about the relationships between themes related to the ability of refugees to afford fees will follow in the next chapter. I will now proceed to description of my findings as they emerged from the data, using the format illustrated in the table. I would like to mention that some findings, especially those related to national refugee and education policies or legislation, apply to refugees in South Africa and not only Cape Town. Deductions made from policy may prove useful for future studies at a national scale.

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