Zimbabwean Illegal Migrants in South Africa and the Problem of Stateless Children

Herbert Moyo

ORCID iD: <https://orcid.org/0000-0001-9648-9426>

Abstract

Illegal crossing of the border between Zimbabwe and South Africa along the Limpopo River and at the Beitbridge border post has become a daily reality. Zimbabweans are pushed by the economic crisis to seek jobs and commodities in South Africa. Getting a passport in Zimbabwe is very expensive, especially for many unemployed Zimbabweans. Those with passports are subjected to long queues at the border post if they just want to cross for groceries in Musina while those who cross illegally have faster access to their destinations. In addition, for those with passports who are seeking employment in South Africa, it is difficult to meet the visa requirements resulting in people working without work permits. Economics, visa challenges, unemployment and barriers to the acquisition of Zimbabwean passports are continuously leading well-meaning economic migrants to resort to illegal border jumping. The capricious socio-economic and political situation in Zimbabwe since independence from colonialism continues to drive Zimbabweans to the diaspora with some becoming illegal migrants in neighbouring countries, mainly in South Africa and Botswana. However, migrant labour from Zimbabwe to South Africa dates back to colonial Zimbabwe and apartheid South Africa, the political independence of the two countries has changed the demographics of migration for economic refugees. During the colonial era, agents and employers easily facilitated migration and the phenomenon of illegal immigrants was not common. In the whole migration phenomenon children have become victims of circumstances if they happen to be born to illegal migrants in South Africa. This study exposes the plight of Zimbabwean migrants, particularly children of illegal migrants in Gauteng Province, South Africa. The children of illegal migrants suffer uniquely as they may end up being stateless people because of the complexity of accessing identity documents. This study concludes that children are innocent victims of the sins of their parents. There should be a change of policy on citizenship both in Zimbabwe and South Africa to protect

the human rights of children who are victims of circumstances beyond their own control. I also conclude by recommending reforms in citizenship laws in Southern Africa. To avoid the incidence of children of illegal migrants becoming stateless. Governments in Southern Africa should enact a law of citizenship by birth. Children born in a particular country should become citizens of that country, regardless of the citizenship status of their parents.

Keywords: Chief Bankwe, stateless children, illegal migrants, Matabo, Zimbabwe, Gauteng – Hammanskraal, citizenship, crossing the Limpopo river

Introduction

This article highlights the challenges faced by children born in South Africa to illegal migrants, mainly from Zimbabwe. The dawn of independence was seen as the beginning of a prosperous future for Zimbabweans, as they were free from the shackles of colonial oppression which had relegated many citizens to abject poverty in the reserves. At the time, Rhodesia was the breadbasket of Africa. One would have expected the 'New Zimbabwe' to grow the economy to something bigger than a breadbasket, if there is such. The democratic dispensation was received with a great deal of enthusiasm by Zimbabweans but it has resulted in more suffering than the expected joy, especially if one has a different political view than the ruling party (Blair 2003; Nkomo 1984).

Illegal crossing of the border between Zimbabwe and South Africa along the Limpopo River and at the Beitbridge border post has become a daily reality facilitated by the involvement of corrupt syndicates (Chiliya *et al.* 2012; Pophiwa 2017; Hungwe 2017; Mpondi & Mupakati 2018). Zimbabweans are pushed by the economic crisis to seek for jobs and commodities in South Africa. Getting a passport in Zimbabwe is very expensive and beyond the reach of many unemployed Zimbabweans. Those with passports are subjected to long queues at the border post while those who cross illegally have faster access to their destinations (Mpondi & Mupakati 2018). In addition, those with passports who are seeking employment in South Africa, face difficulties meeting the visa requirements resulting in scores of people working without work permits. There is legal and political exclusion of migrants which is understandable as South Africa legitimately tries to reserve and protect certain jobs and businesses for South African citizens (Hungwe 2017). Economic challenges, failure to secure work permits, unemployment in Zimbabwe and

the difficulty in the acquisition of Zimbabwean passports are continuously driving well-meaning economic migrants to illegal border jumping (Chiliya *et al.* 2012; Dodson 2000). Zimbabweans have been fleeing Zimbabwe due to different epochs such as the *Gukurahundi*¹ which was a genocide against the Ndebele by the government of Zimbabwe from 1983 to 1987 (Catholic Commission for Justice and Peace in Zimbabwe (CCJPZ) & Legal Resources Foundation April 1999; Sokwanele 2007; New Zimbabwe.com website n.d.) The Economic Structural Adjustment Programme (ESAP) in Zimbabwe in the early 1990s dealt another blow to the economic stability of citizens leading to retrenchments, loss of livelihoods and the resultant emigration of locals to the diaspora (Potts & Mutambira 2007; Makoni 2000; Katito 2008; Marquette 2002). The government of Zimbabwe also embarked on an ill-planned land reform project (Blair 2003; Martin 2006; Selby 2006; Meredith 2007; MacGarry 2007) which resulted in Zimbabwe failing to produce enough food for itself. Many people lost jobs, as the Zimbabwean industry is agricultural-based and people had to find means to survive hence further entrenchment into migrant labour. Operation Murambatsvina which was the destruction of houses and informal businesses of suspected opposition supporters (Potts 2006; Musomi 2010; Zimbabwe Catholic Bishops Conference 2007) have contributed to the mass exodus to the diaspora. Further on, pre- and post-election violence mainly by the government, political violence, disappearances of those who speak out against corruption especially activists, journalists and clergy, corruption by government authorities and poor economic and political policies were key drivers of people out of Zimbabwe to the diaspora (Blair 2003; Solidarity Peace Trust of Zimbabwe 2004; Ndlovu-Gatsheni 2004). Zimbabweans were left with no option but to seek employment outside Zimbabwe as unemployment has hovered around 90%. Although migration from Zimbabwe

¹ *Gukurahundi* is the code name for the army that was used to kill supporters of ZAPU who happened to be Ndebele in most cases. *Gukurahundi* is a Shona word that means ‘cleaning up the dirt’. It is associated with the first rains that clean the countryside of all dirt such as tree leaves. Working in the fields becomes easier with dirt having been cleaned. Similarly, the then government felt that it would be easier for it to govern in the absence of the Ndebele. The other parts of the country did not know that government was killing people in Matabeleland region. Now, in the wake of current disturbances they are beginning to learn the story of the genocide more objectively.

to South Africa dates back to colonial Zimbabwe and apartheid South Africa, the political independence of the two countries has changed the demographics of migration for economic refugees. During the colonial era, agents and employers easily facilitated migration and the phenomenon of illegal immigrants was not common. Migrant labourers assumed that political independence meant the end of migrant labour as such was associated with colonial politics. But reality shows that migrant labour is now worse than during colonialism. A considerable number of Zimbabweans are now crossing the border illegally to work as migrants in neighbouring countries, especially South Africa (Hungwe 2014). In the complex illegal migration phenomenon, children have become victims of circumstances if they happen to be born to illegal migrants in South Africa. This study highlights the plight of Zimbabwean migrants, particularly children of illegal migrants in Gauteng. The children of illegal migrants suffer uniquely as they may end up being stateless because of the complexity of getting identity documents. This paper explains how children end up being stateless; it provides an extract of data from an ongoing research project documenting the experiences of illegal Zimbabwean migrants in South Africa. The data presented herein focuses specifically on the experiences of illegal migrants and their children, mainly born in the diaspora.

The research participants are Zimbabwean illegal migrants from Mberengwa District, in Ward 32 under Chief Bankwe. This project, which commenced in 2011, is located both in Zimbabwe's Mberengwa District and in South Africa, mainly in Gauteng Province. For the purposes of this chapter, I will single out data from participants who narrate the experiences that led them to leave Zimbabwe, how they crossed the border and their ordeals in South Africa. This chapter concludes that children are innocent victims of the sins of their illegal migrant parents. I conclude that there should be a change of policy on citizenship both in Zimbabwe and South Africa, such that citizenship is by birth regardless of the citizenship of their parents. I must emphasize that the Zimbabwean political leadership should reform the current socio-economic and political crisis that is driving citizens to neighbouring countries as illegal migrant workers.

Contextual Background of the Study

This paper is a product of an ongoing study taking place mainly in Hammanskraal in the Gauteng Province of South Africa. This study targeted

illegal migrants from Mberengwa District in the Midlands Province of Zimbabwe. This paper will focus on illegal migration and stateless children. The census conducted by the Zimbabwe National Statistics Agency (ZNSA) in 2012 shows that in Mberengwa's Ward 32, there were 2 817 males and 3 163 females, amounting to a total of 5 980 people. The same census shows that in Ward 32 there were 1 280 households (ZNSA 2012: 90). The study is centred on migrants who moved from Ward 32 under Chief Bankwe of Matabo area in Mberengwa District and are now illegally resident in Gauteng Province. Ward 32, according to Chief Bankwe's records has about 1 213 homes/homesteads². The ward is coincidentally made up of 32 villages that are headed by *Kraal*-heads. *Kraal*-heads report to the chief. This ward is about 120 km from the border with South Africa. The majority of the people in Ward 32 speak isiNdebele as a first language. This is the Ndebele part of Mberengwa which borders Matabeleland South Province. According to the chief's records, as of March 2015, there were 3 566 adults and 4 189 school-going children in this community. This gives total 7 755 people. Ward 32 has seven primary schools and one secondary school. There is one clinic serving this community. The community has 10 shopping centres, which are seen as growth points, if the economy of Zimbabwe eventually improves. Formal employment is a major challenge except in schools, the clinic and shops. The majority of the youth in this community have to migrate to the cities especially Gwanda, Bulawayo or across the border to Musina and Gauteng in South Africa. Another sizable number of mainly young adults go to different parts of the country to do gold panning. The community is literate as the majority of the people born from around 1965 onwards have accessed secondary school education, mainly in Matabo Upper Top which was established in 1981 in Ward 32.

The majority of the migrants from Ward 32 are economic refugees. This can easily be linked to the socio-economic and political context in Zimbabwe of abject poverty, where there are no jobs and no rains to support subsistence farming. It is against this background that I am advocating for the United Nations to consider redefining circumstances that can lead one to become a refugee. Both poverty and war can kill. Poverty that results in

² Chief Bankwe, records for homes (An A4 exercise book without dates). The chief adds names of new homeowners under his chieftaincy. The record shows the Identity Document (ID) number of the homeowner, the year the home is/was built and the name of the *kraal* head under which the home is built.

economic refugees should be classified as a criterion for refugee status in another country as people flee from the war of poverty. In the Bible the Israelites became refugees in Egypt (Genesis 12:10) because of poverty. Unemployment in one country and possible employability in a neighbouring country should be accepted as reason enough for one to become a refugee.

The History and Scale of Migration from Ward 32

The history of Ward 32 and migration goes back to 1968 when members of this community became migrant workers in Johannesburg. Before the Zimbabwean and South African independence in 1980 and 1994 respectively, migrant labour to South Africa was encouraged in Rhodesia. There was an office in Bulawayo that processed the migrant labourers, mainly from Matabeleland and Midlands provinces. The history of migrant labour to the gold mines in Johannesburg is well documented by a number of scholars such as Jonathan Crush (1991). Bishop Mathe also confirms the long history of migrant labour in Ward 32 when he says,

I have been praying and blessing people going to work in Johannesburg since 1975. There was no threat of arrest by the police and immigration officers. I was protecting them against the dangers of going to work underground in the gold mines. Therefore, the majority of rich people in this community earned their wealth from Johannesburg. The white government of Apartheid had no problem with this. Arrests and deportation started with the government of blacks. I do not understand this. Now going to work in the mines and farms is illegal so we have to appeal to God for the protection of people going to earn an honest living, just as we have always earned our living from Johannesburg (Bishop Mathe Interview 14 November 2016).

The migration accelerated when Zimbabwe gained independence in 1980 and further accelerated in 2000 following the economic meltdown of Zimbabwe (Moyo 2015; Moyo 2014). The take-over of the Zimbabwean presidency in November 2017 by Emmerson Mnangagwa from Robert Mugabe promised a new dispensation, but it appears that Zimbabweans continue to sink further into suffering and poverty. The new dispensation has pushed Zimbabweans in large numbers to the diaspora while the government of Zimbabwe maintains that

there is no crisis afoot in Zimbabwe. The Zimbabwean passport is a very expensive document, reserved for the privileged and this exacerbates illegal migration into neighbouring countries as people's means of earning a living. Therefore, in reality, migrant labour in gold mines and farms in Johannesburg is not a new phenomenon for people from Ward 32. The interviewees were adamant that as long as there is economic crisis in Zimbabwe, people will continue to cross the border to South Africa for economic reasons.

South Africa is one of the popular destinations mainly because people can walk across the border without any form of documentation through the use of informal services provided by *Amagumaguma*³ and *Omalayisha*⁴. As of December 23, 2019, 1 288 households out of 1 411 households from Ward 32 confirmed having at least one family member in South Africa. In December 2019, the total recorded number of people who had migrated from Ward 32 to South Africa was 1 680. This number excludes children born to these migrants in the diaspora. Of note is that 1 483 used illegal means to cross the border, implying that the majority of this number do not have proper documents to travel to South Africa. Some of the illegal migrants use *Omalayisha* who are known to transport goods such as groceries, furniture, money, relatives and remains of the deceased. The work of *Omalayisha* is well documented by Vusilizwe Thebe (2011).

As of December 2019, at least 73 people from Ward 32 had benefited from the special dispensation permits offered to Zimbabweans by the South African Department of Home Affairs since 2009 (Department of Home Affairs South Africa n.d.). Data shows that the majority of these illegal migrants from Ward 32 reside in Zimbabwean communities mainly in Eersterust, Thokoza,

³ *Amagumaguma* are gangsters found along the border especially on undesignated points used areas by illegal migrants to cross the border. These gangsters rob, rape and kill the 'innocent' illegal migrants. *Amagumaguma* are also found around the official border post both on the Zimbabwean and South African sides of the Beitbridge border post. They promise shortcuts and illegal ways of going through the border, such as crossing without passports, crossing without going through customs with declarable goods as well as jumping queues at a cost.

⁴ *Omalayisha* (Transporters) are people who transport both goods and people across borders mainly between Zimbabwe and South Africa through the Beitbridge border post.

Tembisa, Green field, Pola Park and Hammanskraal, north of Pretoria (Zinyama 2002). In some instances, Zimbabweans have taken over blocks of streets. For instance, when walking around Pola Park, one actually feels as if they are back in Zimbabwe because the Shona language dominates certain sections of the community. Zimbabweans of Nguni background are not identifiable in terms of language as they easily adapt to the isiZulu and isiXhosa languages. Zimbabweans who speak Tshivenda, Sesotho, Xitsonga and Shangaan also easily assimilate into South African communities to a point where it is not easy to tell if they are Zimbabweans from a language perspective. One major challenge faced by illegal migrants is giving birth to a child in South Africa. The children born to illegal migrants do not have the necessary documents to become South African citizens or Zimbabwean citizens.

Data Collection

For the purposes of this paper, I gathered data through in-depth interviews with illegal immigrants who have children that were born in the diaspora. Sampling was purposive as I specifically asked for those with children born in the diaspora who have experienced legal challenges getting documentation for their children. This is the second study on illegal migrants with children in the diaspora; the first study was conducted in 2011 with a different set of participants. In February 2019 I announced the news of the study at a church service and 23 women came forward to tell their stories. These women knew one other and they worshiped together. I divided the respondents into two groups of 11 and 12 people respectively, for discussion management purposes, allowing each person a fair chance to share their story. The first group met in the first week of March while the second group met during the last week of March 2019. I had only one session with each group where I asked for the narrative of their experiences. As they narrated their experiences, I tried to keep the focus on the challenges of having children in the diaspora as an illegal migrant. The meetings were lengthy but the participants decided that they all wanted to share their stories on the same day in each group. Therefore, the first group met for six hours while the second group meeting lasted for eight hours. During the narratives, there were songs and prayer sessions, as determined by the participants who all belong to the Zionist Church. I observed that the focus group sessions appeared to also be healing sessions through narrative therapy. The respondents delved deep into their memories and retrieved some painful expe-

riences; they then soothed their feelings through emotional spiritually charged songs and prayers. I also offered group counselling during the sessions and at the end. Members of both groups refused to have any food during the sessions.

The Challenges Faced by Women and their Children

The findings of the focus group discussions showed that amongst the many Zimbabweans who live illegally in South Africa, their children are suffering because of the migration ‘sins’ of their parents. This mainly affects more women than men. Women who are illegally in South Africa who happen to fall pregnant face challenges regarding the citizenship of their children.

Giving Birth to Children under Unsafe Conditions

In focus group discussions women spoke openly about their struggles with children. The 23 women who came to South Africa between 2004 and 2017 engaged with South African men romantically, in the hopes of gaining citizenship through marriage. Of the 23 women, 14 fell pregnant after sleeping with South African men; the men disappeared as soon as they announced the pregnancy. Another three women came to South Africa while pregnant. The remaining six women have Zimbabwean spouses who are also illegal migrants. Without documentation, the women did not receive any medical attention at hospitals for the duration of their pregnancies. According to these women, going to a hospital would risk exposing one’s illegal status. Two of the women said they went to private doctors for their antenatal check-ups, which was very expensive. The rest of the women depended on prayers from their pastors and herbs from the elderly members of their church. They could not go back to Zimbabwe as illegal migration would be highly risky for a pregnant person. At the point of giving birth, only five women were able to deliver under the care of a private doctor. The rest of the women gave birth in their residences with help from fellow women. The children are cared for at home without professional medical attention.

Stateless Children

These women gave birth to children who are essentially stateless. The women are not able to take their children to Zimbabwe for several reasons. Technically, these children are not Zimbabwean; it will be very difficult to register them in Zimbabwe since they were born in South Africa and there is

no South African documentation concerning the birth of the child. In fact, the child is both Zimbabwean and South African but there is no documentary evidence from either of the two countries. Second, all these mothers entered South Africa through illegal border jumping, so they do not have passports. Therefore, the next question would be why these women do not 'jump the border' with their children or while still pregnant in the same way they came to South Africa, as illegal migrants?

All the focus group discussions demonstrated that 'border jumping' comes with so many risks that the parents fear will be too great for the little children. Some of them crossed the Limpopo River at night, risking drowning and crocodile attacks. The women believed it would be an almost certain death sentence to the children to attempt border jumping with them. Some women came with *Omalayisha* but they feared using the same mode of transport with children as *Omalayisha* are also alleged to be involved in human trafficking where they (*Omalayisha*) are now selling women and children into prostitution or for body parts. Therefore, women felt that it was too risky to use *Omalayisha* with their young, undocumented children. These children therefore remain in South Africa without birth certificates that leads to other challenges such as schooling, seeking medical attention and their ability to get identity documents.

Out of the focus group discussions, nine women managed to smuggle their children to Zimbabwe between 2010 and 2017. Seven of the nine children between the ages of 6 and 14 years, still do not have identity documents as the Zimbabwean officials require a birth record or letter from a local Chief proving the birthplace of the child and these women have failed to produce these documents.

One woman in the group said she told the Zimbabwean officials the truth that the child was born in the diaspora; she was ridiculed and asked to take the child back to South Africa or alternatively bring a birth record from South Africa. Two of the children now have documents from Zimbabwe. The mothers said that they bribed the Home Affairs officials in Zimbabwe to obtain the documents. It is difficult to get documentation and citizenship for these children on either side of the Limpopo River.

Challenges on the Registration of these Children in South Africa

The consensus among the women in the focus group discussions was that the

registration of the children would have been easier if the fathers of the children had accepted paternity. Of course, even in such a case the law would still need the documentation of the mother and that could result in the prosecution of the illegal immigrant. The mothers are not able to approach the South African Department of Home Affairs for the documentation of their children for fear of persecution. Even though some were born in private doctors' surgeries and were issued a South African birth record showing their place and date of birth, for these children to be registered as South Africans, their mothers should have South African identity documents. The law in South Africa does not consider being born in South Africa as a right to citizenship. The child's citizenship depends on the citizenship of its parents. All these mothers do not consider themselves refugees, so they have not tried to apply for refugee status to obtain documentation for themselves and their children. They also do not even know if the issue of human rights applies to refugees. In this case, these children are rendered stateless.

The second group of children are those whose parents confess that they came to South Africa already being pregnant. In this category, there were three women with four children between them; one mother had twins. One of the women later got married to an illegal immigrant from Malawi and she has since given birth to two more children who are also not documented. Being born in South Africa, the fate of the child is the same as that of a mother who became pregnant while in South Africa. The third group are those children born to Zimbabwean parents who are both (husband and wife) illegal immigrants. In my focus group discussions, I had six women in this category with a collective nine children. These children cannot be registered in South Africa and the parents are unable to take the children back to Zimbabwe because of the challenge of transporting undocumented children. These children are thus also stateless and undocumented.

The focus group discussions have demonstrated that there is a problem of stateless undocumented children in South Africa as a result of illegal migration. This challenge faced by children is also discussed extensively by Goodwin-Gill (1996) from a legal perspective on the human rights of refugee children. These children are caught in a situation beyond their own control (Nicholson 2005). Unfortunately, the Zimbabwean women in this study are yet to realise that they are illegal economic refugees in South Africa. This realisation may ease the challenges faced and experienced by the statelessness of their children.

Challenges Faced by Stateless Children

The first most obvious challenge faced by these children is the lack of a birth certificate. This leads to too many challenges such as lack of access to: register in schools; access medical care; open bank accounts, apply for loans, and apply for identification documents. In essence, the children of illegal immigrants do not have life in a modern state and economy, as long as they do not have citizenship.

Arrests of Illegal Migrants and Children

Police carry out identification spot checks in many parts of Gauteng. There are some illegal immigrants who have managed to find employed even without South African identity documents (employers abuse and exploit illegal immigrants) (Hungwe & Gelderblom 2014). There are two key challenges that illegal immigrants face when it comes to arrests. The first challenge is that some people are arrested while being away from their children, who are at times too young to fend for themselves. For instance, eight women confessed that they were arrested in town ‘hustling to make ends meet’, having left their children in their shacks. Pleading with the police about the kids was not helpful. Of the eight mothers, three returned after being deported and they were fortunate that their neighbours were able to take care of their children. Some of these mothers had been separated from their children for up to one year. The other four mothers came back after more than one year and they have not been reunited with their children. Up to now, these mothers do not have any idea of the whereabouts of their children (aged between three and seven years old). This happened to these women at different times, in different locations of Gauteng. The narratives are traumatic to these women. Five women say that, when they went back to the informal settlements where they had stayed previously, they found that their shacks were no longer there and they did not know the people that they met. The shacks had new owners. Therefore, they did not have anyone to ask about the whereabouts of the children. The other two women have recently returned to South Africa, six years after having been deported. The women confess that they had tried several times to illegally re-enter South Africa to look for their children, without success. They finally bribed authorities to be able to re-enter South Africa in search of their children. One woman who stayed in Thokoza returned to find that her landlord and his wife had passed on. The new homeowners were strangers to her and knew

nothing about her son. The son was three years old when she was arrested. She has now lost hope of ever finding her child.

One woman returned to South Africa after one year of being separated from her 6-year-old son. When she came back, the young boy was living on the streets of Johannesburg. The boy is now 10 years old but is very difficult to control as he keeps running away from his mother to return to the streets where he is taking drugs with other children living on the streets. One of the participants said

I am afraid, Rev, that most of the children separated from their parents end up being street kids, especially boys. As for the girls, Rev, they may be sold into [as] sex slaves and we may never find them again. Authorities should unite us with our children before they deport us (Anonymous participant March 2019).

Fifteen women in the group in Hammanskraal confessed to having been separated from their children which forced them to bribe the personnel at an Immigration Transit Centre through money or sexual intercourse to be released for the sake of their children. This trend was also observed by Rickard (2004) who says that authorities do seek bribes from illegal immigrants in Johannesburg especially at *Lindela* Immigration Transit Centre. The same appears to be true of the arresting officers. Some women have avoided arrest and subsequent deportation by offering money and/or sexual intercourse as bribes. In both focus group discussions, a total of eleven women confessed to having sexual intercourse with authorities in order to be released (Goldenberg, Strathdee, Gallardo & Patterson 2010), to avoid the catastrophic experience of being separated from their children. Sixteen of these women have husbands but still risked engaging in usually unsafe sex to avoid deportation. This is evidence that there is corruption in the police and immigration departments. The reality of corruption is confirmed by the *Mail and Guardian* newspaper which has reported on corrupt police officers being captured on camera while soliciting bribes from illegal immigrants in Johannesburg (*Mail and Guardian* 2005).

Therefore, the challenge is that arresting officers and the officials in Immigration Transit Centres do not listen to illegal immigrants when they talk about having left children behind. Illegal immigrants, once arrested, seemingly have no rights to talk about their dependents, including children (Rickard 2004). Consequently, children have been left without parents to fend for

themselves or survive on the generosity of neighbours. In the broader sense, if we go by the estimation that there are about 2 to 3 million illegal Zimbabwean immigrants in South Africa and that there are about 20 000 deportations every month then the question is, how many children are losing their parents every month? Some children go to school or to play outside, only to come back to a home to which their parents will never come back. Why is it that the police cannot arrest the illegal immigrants and escort them to Immigration Transit Centres via their shacks, to enable them to collect their children and their belongings? This raises legal questions about unaccompanied children and their rights (Bhamjee 2005).

One wonders what happens to the children who are never reunited with their parents. Even those who finally reunite with their parents must have endured devastating trauma. One has to question how happens the psycho-emotional need of these children are dealt with.

The Detention of Children for the Sins of their Mothers

The last category of children are those who are detained with their mothers at Immigration Transition Centres. There are instances when mothers are arrested as illegal immigrants together with their children (Anthea 2009). Children and parents are detained together at times for up to five months. A total of 32 mothers in the Hammanskraal group confessed to have once been imprisoned with a child or children at an Immigration Transition Centre. The narratives of these mothers show that the abuses that take place at the centre happen in the full view of children (Rutherford 2008; Ravengai 2015; Pedraza 1991). Some children will be younger than a year old, while others are as old as 16 years. The children are exposed to abusive language, sexual acts and general corruption at the centre, which should not be the case. These children miss out on schooling – for those lucky enough to be enrolled at a school. These children also miss out on normal childhood activities, like playing with their peers in a safe environment – all for the sins of their mothers.

Is Going Back to Zimbabwe an Option?

There are some illegal migrants who want return to Zimbabwe. However, doing so is very difficult in light of stateless children that are at the centre of their motherhood challenges. The mother cannot leave their children in South Africa since they are ‘not South African’ and they cannot take these children

to Zimbabwe since they are ‘not Zimbabwean’. If these mothers decide to go back to Zimbabwe, so that at least the mothers will be legal in Zimbabwe, although the children will be illegal, the challenge is how to illegally cross the border with a child from South Africa considering the dangers that have been highlighted previously. Trying to cross through the border legally is almost impossible, especially without documents to prove that the children are legally in their custody. Mothers can bribe their way through the border but authorities are very strict with the movement of children. The mothers also noted that the economic situation in Zimbabwe which led them to cross to South Africa initially, has not changed; hence returning would be defeating the sacrifices they have made suffered thus far (Martin 2004).

Conclusion

Many Zimbabweans became illegal economic immigrants and saved their families from starvation as the Zimbabwean economy ground to a halt. This study has brought to light the complexity of migrant labour from Zimbabwe by showing that it has gone through phases of being legal and then becoming illegal especially after 1994. People from Ward 32 worked in the mines and farms in South Africa as migrant labourers, long before the independence of South Africa in 1994, without the need for special permits. This makes it difficult for them to accept the new laws that require work permits, which are not easy to access. Illegal Zimbabwean migrants are in search of safe spaces in South Africa (Chirongoma 2012).

Illegal migrations have brought to light, the development of stateless children and their plight in South Africa. There should be a legal debate between Zimbabwe and South Africa on the citizenship of these children. In my view, the law on citizenship by birth should apply to all children born in a particular country regardless of the citizenship of parents (United Nations Convention on the Rights of the Child 1989). This applies to both Zimbabwe and South Africa. Children born in South Africa, regardless of the citizenship status of their parents, should automatically be South Africans so that they can access all the necessities that require documentation. Even if this were to materialise, there may still be complications where parents who may be illegal immigrants may be afraid to present their children to the South African Department of Home Affairs for registration. The children’s human rights to necessities such as access to health and educational facilities is negatively

affected (Cohen n.d.; United Nations Convention on the Rights of the Child, 1989). Children's rights must be protected, regardless of the migrant status of their parents. Children have become innocent victims of citizenship laws and the migration behaviours of their parents. Arresting officers and immigration officials must allow illegal migrants to attend to their children before they are detained at an Immigration Transition Centre ahead of deportation. The separation of children from their parents by government officials should be criminalised as it places the lives of these children in danger of exploitation and neglect. There is need for further research on how to legally alleviate the plight of the children of illegal migrants in South Africa.

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Professor Herbert Moyo

Practical Theology

School of Religion, Philosophy and Classics

University of KwaZulu-Natal

Pietermaritzburg

moyoh@ukzn.ac.za