



29 October 2015

NKOMAZI, Mpumalanga: ***The issue of children who are marginalized from society and are refused education due to a lack of Identity Documents***

Background: The Nkomazi region (the Lowveld region) with a local government that sits in Malelane, is an area bordering with Mozambique on the east and Swaziland on the south. The community (circa 500,000) is composed primarily of Swazi and Shangaan people. Nkomazi accepted thousands of refugees during the 15 year Mozambican war (ended early 1990's) and hundreds more have moved from both Mozambique and Swaziland to live with extended family members in Nkomazi or as economic migrants.

The Nkomazi community is ranked among those with highest prevalence of HIV infections, e.g. antenatal prevalence 2013 was 42%¹, which puts Nkomazi among the highest in the world². The 2011 census reports³ the unemployed rate at 42% 19,913 double orphans between ages 0-19 and a further 47,259 between ages of 20 and 39 which are the child bearing years. Only 11.7% of the population has completed secondary school.

Challenge: The South African Department of Education is insisting that all children must be in possession of valid Identity Documents (ID) in order to continue with education. But for historical reasons thousands of children do not have birth certificates or IDs and find themselves, in some cases, reaching their Matric year and being refused entry to write the exam while others are "expelled" in earlier years.

As from 2016 all stateless children will be excluded from school.

- **Children's right to basic education is being violated.** The right of all children to education is being violated because children without birth certificates are being excluded from schools.
- **There is a contradiction between the Constitutional right to education for all, and the Immigration Act's (2002), Sections 39 and 42 prohibition of providing training or instruction to undocumented migrants ('illegal foreigners').** Therefore principals struggle with conflicting mandates. While school principals are supposed to uphold all children's right to education and ensure that all children in a community are in school, they are being asked to enforce the birth certificate or study permit requirement and exclude children on that basis.

Children do not have birth certificates for a number of reasons including being orphaned, mothers don't have birth-certificates and IDs, fathers are 'unknown' or untraceable, fathers are

¹ DHIS annual survey for March 2013

² WHO - aids-hiv-progress-towards-achieving-ua-in-africa-dec2013

³ Sastats



South African but mothers aren't, therefore DNA tests are required at R700 per child to prove paternity. Some children who were born in the local hospital do not have proof and lack of cooperation from the authorities to look up and proved the necessary proof.

Scope of the problem: The problem of the lack of IDs is threefold.

First, the children are in effect 'stateless' and therefore totally excluded from all Government support. In the Nkomazi area in 2013, **1,200 learners were refused permission** to write their matric. This also presents a problem as in many orphan headed homes (OHH) the younger siblings do have birth certificates but the eldest doesn't. In 2013, Themba lethu recorded **600 children** in and around Schoemansdal village that do not have IDs. Extrapolation of these numbers indicates a potential **5,000 children at risk of exclusion** from school and work.

Second, exclusion **from education creates vulnerable and marginal groups**. Excluding long-term local residents from education on the basis of documentation is creating a group of poor and vulnerable residents, which has negative impacts on the entire community

Third, these children cannot be repatriated as they do not belong to either Mozambique or Swaziland.

Themba lethu Nkomazi: Based in Schoemansdal village, Themba lethu has been working with HIV and AIDS affected children and families since 1999 and has thus has extensive experience in working to alleviate problems in the community.

Our findings are:-

- **Children's rights to basic education are being violated.** The right of all children to education is being violated because children without birth certificates are being excluded from schools.
- **There is a contradiction between the Constitutional right to education for all, and the Immigration Act's (2002), Sections 39 and 42 prohibition of providing training or instruction to undocumented migrants ('illegal foreigners')**. Therefore principals struggle with conflicting mandates. While school principals are supposed to uphold all children's right to education and ensure that all children in a community are in school, they are being asked to enforce the birth certificate or study permit requirement and exclude children on that basis

Themba lethu is asking for assistance in addressing this very real problem.

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