

The Discontinuation of the Zimbabwe Exemption Permit and the Zimbabwean Child's Right to Basic Education: An Analysis

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SUMMARY

In 2008, many Zimbabwean nationals moved to South Africa to flee political and economic hardships. Having overwhelmed the immigration system, a time-limited special dispensation for Zimbabwean nationals to stay lawfully in South Africa was implemented in 2009. The special dispensation was extended over the years until its expiry at the end of 2021. No extension of the dispensation was granted, and South Africa instead issued several notices extending the stay of Zimbabweans until December 2023. Recipients of the permits have been asked to return to Zimbabwe or apply for other ordinary permits provided in the South African immigration system. In the course of the 13 years since 2009, neither South Africa nor Zimbabwe appears to have anticipated the consequences of terminating the special dispensation despite the context of national, regional and international protocols on matters of immigration and the education of children – notably the Southern African Development Community (SADC)'s Protocol on Education and Training. This article investigates the consequences of the termination of the Zimbabwean Exemption Permit (ZEP) on the basic education of child dependants of ZEP holders. Such consequences include,

among others, challenges associated with integrating and adapting to a new curriculum, linguistic and economic barriers, and other socio-emotional reactions associated with making major life changes. The article makes a comparative analysis of basic curriculum portability between South Africa and Zimbabwe and assesses the general readiness of Zimbabwe to integrate children into its education system. In conclusion, the article highlights the importance of organs of state making decisions that are compliant with the Promotion of Administrative Justice Act 3 of 2000. The article recommends educationally sound interventions to ensure effective transitional arrangements for access to basic education for ZEP dependant children.

KEYWORDS: immigration control, immigration, permit, Zimbabwe Exemption Permit, basic education

1 INTRODUCTION

South Africa is an immigration destination of choice in Africa owing to the country having relatively effective democratic institutions and a relatively industrialised economy.¹ Despite its high unemployment rate,² South Africa hosts the largest number of immigrants on the African continent. Official estimates in 2021 revealed that the country was hosting about 2.9 million immigrants, although this number is probably underestimated owing to the presence of large numbers of unauthorised migrants, particularly from neighbouring countries.³

In 2008, in response to politically motivated violence arising from the disputed Zimbabwean presidential elections, many Zimbabwean nationals fled their country and sought refuge in South Africa.⁴ This marked the start of the issuing of various short-term permits to manage the influx of Zimbabwean nationals into South Africa. In 2009, South Africa announced and implemented a legalising amnesty under the Dispensation of Zimbabwean Project for Zimbabweans who were already in South Africa. The Zimbabwe dispensation amnesty granted migrants the right to stay, work, study and operate businesses in South Africa for four years.⁵

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¹ Moyo "South Africa Reckons With Its Status as a Top Immigration Destination, Apartheid History, and Economic Challenges" (18 November 2021) <https://www.migrationpolicy.org/article/south-africa-immigration-destination-history> (accessed 2025-28-01).

² Araoye "South Africa, the Global Immigration Crisis and the Challenge of African Solidarity" 2015 65 *The Thinker* 13.

³ Moyo <https://www.migrationpolicy.org/article/south-africa-immigration-destination-history>.

⁴ Washinyira "Battle Over Zimbabwe Permits Set for High Court in April" (27 January 2023) <https://www.dailymaverick.co.za/article/2023-01-27-battle-over-zimbabwe-permits-set-for-high-court-in-april/> (accessed 2023-07-11).

⁵ Thebe "Two Steps Forward, One Step Back': Zimbabwean Migration and South Africa's Regularising Programme (the ZDP)" (28 April 2016) <https://repository.up.ac.za/>

The ad hoc dispensation for Zimbabwe permits failed to manage the complex migration challenge in that, at the end of four years, only a small fraction of the Zimbabweans were documented.⁶ In 2014, a new system, the Zimbabwe Special Permit, replaced the Dispensation of Zimbabwe Project.⁷ In 2017, the permit became called the Zimbabwe Exemption Permit (ZEP).⁸ In November 2021, the Cabinet announced that South Africa would no longer extend the validity of the ZEP.⁹ Initially, the permit was to expire in December 2021, which would leave almost all of the 180 000 permit holders undocumented.¹⁰ Advocacy groups intervened, and the government granted a 12-month grace period until December 2022, which was again extended to June 2023.¹¹ This was to give people more time to apply to remain in South Africa.¹²

The grace period was interrupted by a judgment against the Minister of the Department of Home Affairs in the case of *Helen Suzman Foundation v Minister of Home Affairs*.¹³ The applicants challenged, among other things, the lack of compliance with the consultation requirements prescribed in the Promotion of Administrative Justice Act¹⁴ regarding the decision to end the ZEP.¹⁵ The Minister of Home Affairs applied for leave to appeal, which he lost, meaning that the decision of the Minister remains reviewed and set aside.¹⁶ Since the Minister of Home Affairs is entitled by law to make a decision to terminate the special permit in this instance, the core relief that the applicants got from the courts was only the setting aside of the Minister's decision to terminate the ZEP until the Minister follows a lawful process in making the decision.¹⁷

This article, written by a practising education expert and an active practitioner in the field of immigration law, draws considerably on real-life client case files to discuss the effect of the ending of the ZEP on dependants' right to basic education. Although there is a widespread tendency in many countries to link a parent's immigration status to that of the

[handle/2263/57315](https://www.dailymaverick.co.za/article/2023-01-27-battle-over-zimbabwe-permits-set-for-high-court-in-april/) (accessed 2023-07-11) 1.

⁶ Thebe 2016 *International Migration and Integration* 2.

⁷ Washinyira <https://www.dailymaverick.co.za/article/2023-01-27-battle-over-zimbabwe-permits-set-for-high-court-in-april/>.

⁸ Mdluli "Cabinet Announced That the Zimbabwean Exemption Permits Would Not Be Extended" (25 November 2021) <https://www.youtube.com/watch?v=zODYhRU8Hx0> (accessed 2025-28-01).

⁹ Evans and Ndebele "This is Going to Cause Chaos in SA": Fears Expressed Over Zimbabwe Exemption Permit Cancellation" (27 June 2022) <https://www.News24.Com/New24.Com/News24/SouthAfrican/News/this-is-going-to-cause-chaos-in-SA-fears-expressed-over-Zimbabwe-extension-permit-cancellation-20110626> (accessed 2023-07-11).

¹⁰ Mdluli <https://www.youtube.com/watch?v=zODYhRU8Hx0>.

¹¹ *Ibid.*

¹² Washinyira <https://www.dailymaverick.co.za/article/2023-01-27-battle-over-zimbabwe-permits-set-for-high-court-in-april/>.

¹³ [2023] ZAGPPHC 490 par 10.

¹⁴ 3 of 2000.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Helen Suzman Foundation v Minister of Home Affairs supra* par 147.4.2.

dependant,¹⁸ this leads to unjust outcomes for the affected dependants. Asking parents to move to mainstream visas as a condition for their children's continued education in South Africa is gambling with the lives of children. The article argues that any suggestion that ZEP child dependants should move to study visas is unrealistic given the condition that their parents keep their employment and then use this as proof of financial stability to secure study visas. It is submitted that the delay in processing visas by the Department of Home Affairs in South Africa leaves room to consider waiving and exempting study visa requirements for ZEP dependant children in school, to allow children to continue to learn pending the regularisation of their parent's legal status. The article proposes that, while a blanket waiver is necessary for ZEP dependants whose parents are in the process of visa applications, concessions must also be made for children with parents who receive rejections on their bid to renew their visas. This article concludes that both Zimbabwe and South Africa, as well as the whole of SADC, have an obligation to protect the right to basic education of the ZEP child dependant.

2 A LOOK AT THE COMPLICATED MIGRATION HISTORY BETWEEN ZIMBABWE AND SOUTH AFRICA

Before one considers the basic education challenges faced by children of the discontinued ZEP, the unique character of migration trends from Zimbabwe to South Africa needs to be properly understood so as to understand that temporary solutions are not fit for the complex nature of the movement of the people concerned.¹⁹ Thebe has provided the context in which we must understand South Africa's continued use of ad hoc measures in migration management, and how that affects downstream issues such as return from South Africa to Zimbabwe in line with permit conditions.²⁰

From as far back as 1920, South Africa has sought labour from its neighbouring countries, and the strategies to do so have ranged from solicitation to limited assimilation.²¹ Enforcement and exclusion through control and deportations or expulsions were the cornerstones of the immigration system.²² Although there were regulatory frameworks for the sourcing of cheap labour, such as that of the Witwatersrand Native Labour Association, many other groups of migrants came into South Africa on their own and found work in various informal sectors,²³ including domestic work.²⁴

¹⁸ IBZ Federal Public Services Home Affairs "Order to Leave the Belgian Territory and Forced Removal" (17 March 2023) <https://ibz.be/en/order-to-leave-the-belgian-territory-and-forced-removal> (accessed 2023-07-11).

¹⁹ Maunganidze, Fakhry and Rietig "Migration Policy in South Africa: Lessons From South Africa's Migration Magnet for European Policy Makers" (21 September 2021) <https://dgap.org/en/research/publications/migration-policy-south-africa> (accessed 2025-01-28) 4.

²⁰ Thebe <https://repository.up.ac.za/handle/2263/57315>.

²¹ Thebe <https://repository.up.ac.za/handle/2263/57315> 4.

²² *Ibid.*

²³ Thebe <https://repository.up.ac.za/handle/2263/57315> 4.

As its regulatory framework, the Witwatersrand Native Labour Association adopted a contract labour system where labour was subjected to certain restrictions and controls. Although Zimbabwe did not have a formal labour treaty with South Africa, the recruitment of Zimbabweans continued until the 1986 ban.²⁵ In 1960, Zimbabweans working in South Africa were estimated at about 30 000, but the recruitment of Zimbabweans peaked in the 1970s and 1980s.²⁶

South Africa has always relied on labour from Zimbabwe and other SADC countries in general. Different forms of exclusion and control were used, such as:

- visa systems with monetary conditions²⁷ that would exclude most migrants from legal entry into South Africa;²⁸
- the approval, between 1995 and 1997, of three immigration amnesties for labour in the mines, regularisation of immigrants who came into South Africa before 1990, and Mozambican refugees;²⁹
- special dispensation for farm labour supply in the northern parts of Limpopo;³⁰
- “corporate permits”³¹ in terms of the Immigration Act,³² granted on proof that no suitable South African candidate could be found for the job, and other skills visas for occupational and professional categories; and
- ad hoc measures culminating in the temporary permits of the Zimbabwean Documentation Project in 2009, the Zimbabwean Special Permit in 2014³³ and the ZEP in 2017 – the subject matter of the current discussion.³⁴

The authors of this article are of the view that the approach adopted in *Helen Suzman Foundation v Minister of Home Affairs*³⁵ does not take into account the above essential history and context. Thus, the solution sought was purely in the context of procedural fairness and not within the substantive context of the South African migration regime.

The *Helen Suzman Foundation* decision reflects the law as it stands currently, and may not be stretched beyond the confines of the law. The applicants raised the issue of the Minister having failed to consult with parents and families in the children’s best interests. However, if the Minister

²⁴ Mzabamwita “African Migrants’ Characteristics and Remittance Behaviour: Empirical Evidence From Cape Town in South Africa” 2018 4(2) *African Human Rights Mobility Review* 1226 1226.

²⁵ Thebe https://repository.up.ac.za/handle/2263/57315_2.

²⁶ Thebe https://repository.up.ac.za/handle/2263/57315_4.

²⁷ *Ibid.*

²⁸ Thebe https://repository.up.ac.za/handle/2263/57315_5.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

³² 13 of 2002.

³³ Thebe https://repository.up.ac.za/handle/2263/57315_5.

³⁴ Washinyira <https://www.dailymaverick.co.za/article/2023-01-27-battle-over-zimbabwe-permits-set-for-high-court-in-april/>.

³⁵ *Supra*.

were to comply with the consultation requirements and his decision were found to comply with the Promotion of Administrative Justice Act,³⁶ the Minister's decision will stand. Considering the narrow sense in which South Africa deals with the migration question, affected migrants will not, through a court process, find solutions of a policy and legislative nature that would provide a comprehensive approach to migration. If the Minister's decision is found to have complied with the Promotion of Public Administration Act, the ZEP holders and their children would have to leave and face an uncertain educational future in Zimbabwe.

The next few paragraphs of this article highlight the educational access issues at stake in the Minister's decision.

3 THE RIGHT TO BASIC EDUCATION FOR MIGRANT CHILDREN

International law provides a framework on which African countries should rely for the safeguarding of the right to education for all migrant children. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families recognises that migration causes serious problems for migrant workers and their families.³⁷ Article 30 of the Convention reiterates the importance of access to education for children of migrants. The Convention is clear that access to school or educational institutions for children of migrants should not be affected by the immigration or employment status of the parents.³⁸ Article 44 further recognises the need for children to be with their parents and that family is a natural and important entity, even to migrants, and should be protected by appropriate measures to ensure the unity of families of migrant workers.³⁹ Article 45(2) even encourages countries employing migrants to ensure that policies are in place to facilitate integration into the school system of children of migrant workers, especially regarding teaching them the local language.⁴⁰ The spirit of brotherhood in migration is further highlighted when the Convention highlights that, where possible, countries employing migrants should also work with their countries of origin to collaborate on the teaching of the mother tongue to children of migrant workers.⁴¹

The SADC Protocol on Education and Training calls for harmonising education systems within the SADC region.⁴² The Protocol also calls for the

³⁶ 3 of 2000.

³⁷ United Nations General Assembly *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* A/RES/45/158 (1990). Adopted: 18/12/1990; EIF: 01/07/2003 <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers> (accessed 2025-01-28) Preamble.

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *The Southern African Development Community (SADC) Protocol on Education and Training*, (1997) https://www.sadc.int/sites/default/files/2021-08/Protocol_on_Education_Training1997.pdf (accessed 2025-01-28) Art 2-25.

facilitation of movement of students, teachers and other education and training personnel within the SADC region. Such facilitation means that children within SADC should be able to transfer from schools within the region without any obstacles.⁴³ The Protocol also promotes cooperation and collaboration among SADC member states in the development and implementation of education and training policies and programmes. In relation to non-discrimination, the Universal Declaration of Human Rights states that education is for everyone.⁴⁴ The International Covenant on Economic, Social and Cultural Rights (ICESCR) also recognises “the right of everyone to education”.⁴⁵ The ICESCR states that all grounds of discrimination in the provision of education are prohibited, and there is an immediate obligation on the State to comply.⁴⁶

The Committee on the Convention of the Rights of the Child (CRC) also states that “the principle of non-discrimination extends to all persons of school age residing” in the territory as a state party, including non-nationals, irrespective of their legal status. The CRC is clear that “childhood is entitled to special care and assistance” and acknowledges that “the child, because of their physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”.⁴⁷ What is essential to convey is that the CRC mandates states to take appropriate measures to protect children against discrimination.⁴⁸ The CRC also embodies two general principles that provide the context in which the issue of ZEP dependant children must be understood.

First, in all actions that affect children, their best interests must be considered.⁴⁹ While the CRC itself does not define the meaning of “best interests of the child”, the United Nations High Commissioner for Refugees (UNHCR) states that the concept alludes to the overall well-being of the child, considering the specific situations and risks that children face.⁵⁰

Secondly, children must be protected from any form of discrimination.⁵¹ The African Charter on the Rights and Welfare of the Child⁵² (African Charter) provides that, in any matters concerning children, their best

⁴³ *Ibid.*

⁴⁴ UN General Assembly *The Universal Declaration of Human Rights* A/RES217(III) (10 December 1948) Art 26.

⁴⁵ UN General Assembly *International Covenant on Economic, Social and Cultural Rights* 993 UNTS 3 (1966). Adopted: 16/12/1966; EIF: 03/01/1976 (ICESCR) Art 13.

⁴⁶ Committee on Economic Social and Cultural Rights (CESCR) *General Comment No 13: The Right to Education (Article 13) (1999) E/C.12/1999/10, 8 December 1999* <https://www.ohchr.org/en/resources/educators/human-rights-education-training/d-general-comment-no-13-right-education-article-13-1999> (accessed 2025-01-28) par 1.

⁴⁷ UN General Assembly *Convention on the Rights of the Child (CRC)* 1577 UNTS 3 (1989). Adopted: 20/11/1989; EIF: 02/09/1990 <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> (accessed 2025-01-28) Preamble.

⁴⁸ Art 2(2) of the CRC.

⁴⁹ Art 3 of the CRC.

⁵⁰ UNHCR “UNHCR Guidelines on Determining the Best Interests of the Child” (May 2008) <http://www.unhcr.org/4566b16b2.pdf> (accessed 2018-07-18) 8.

⁵¹ Art 2 of the CRC.

⁵² Organisation of African Unity (OAU) *African Charter on the Rights and Welfare of the Child* CAB/LEG/24.9/49 (1990). Adopted: 11/07/1990; EIF: 29/11/1999.

interests must be of fundamental consideration. The World Declaration, the founding document for Education for All, states that children must be given equal access to basic education services and that all disparities, including discrimination in accessing education opportunities, must be removed.⁵³ The World Declaration encourages the strengthening of partnerships, even between countries since, while, “[n]ational, regional, and local educational authorities have a unique obligation to provide basic education for all, they cannot be expected to supply every human, financial or organizational requirement for this task. New and revitalized partnerships at all levels will be necessary ...”⁵⁴ The African Charter also provides that there must be no discrimination on any ground, including “national and social origin” in education provision.⁵⁵

4 CHALLENGES TO THE PROTECTION OF THE RIGHT TO BASIC EDUCATION FOR DEPENDANTS OF ZEP HOLDERS

4.1 Curriculum change and integration challenges

Given that the ZEP visa has been discontinued, and that extensions do not apply to dependant children of ZEP holders, it is essential to note the realistic situation facing such children in moving from South Africa to Zimbabwe. The two education systems are different. In Zimbabwe, basic education spans 13 years, the first seven years being primary education and the following six years being secondary education.⁵⁶ At primary levels, it is a policy stipulation that children learn in their mother tongue up to Grade 3 and they transition to reading and writing in English by Grade 3.⁵⁷ This means that without integration strategies, a ZEP holder’s dependant child who speaks only South African home languages and is between Grades 1 and 3 will face linguistic challenges if they are to attend school in Shona and Ndebele or any local language in Zimbabwe. In Zimbabwe, learners in Grade 7 sit for four nationally set Grade 7 examinations: Mathematics, English, Shona or Ndebele, and Content (combined science).⁵⁸ The Grade 7 results are very important as they are the gateway that enables learners to

⁵³ United Nations “World Declaration on Education for All and Framework for Action to Meet Basic Learning Needs” adopted by the World Conference on Education for All: Meeting Basic Learning Needs, Jomtien, Thailand (5–9 March 1990) art 3 par 1 and 4.

⁵⁴ United Nations “World Declaration on Education for All and Framework for Action to Meet Basic Learning Needs” adopted by the World Conference on Education for All: Meeting Basic Learning Needs, Jomtien, Thailand (5–9 March 1990) art 7.

⁵⁵ Art 3 of the African Charter.

⁵⁶ USAP “Education in Zimbabwe” (undated) <https://www.usapglobal.org/zimbabwe/education.htm> (accessed 2023-09-29).

⁵⁷ Trudell “The Impact of Language Policy and Practice on Children’s Learning: Evidence From Eastern and Southern Africa” (1 March 2016) <https://www.unicef.org/esa/sites/unicef.org/esa/files/2018-09/UNICEF-2016-Language-and-Learning-FullReport.pdf> (accessed 2025-01-28)

⁵⁸ USAP <https://www.usapglobal.org/zimbabwe/education.htm>.

proceed to Form 1.⁵⁹ It is the view of the authors of this paper that a child moving from the South African education system and attending Grade 6 or 7 cannot realistically be expected to arrive in Zimbabwe and simply write these national examinations and pass. Secondary school in Zimbabwe has three levels: the Zimbabwe Junior Certificate, which consists of Forms 1 and 2; the “O” level, which includes Forms 3 and 4; and then “A” level, which includes Forms 5 and 6.⁶⁰ Students take about eight subjects at O level from a selection of subjects listed below.⁶¹

Sciences	Biology, Chemistry, Physics, Physics with Chemistry, Integrated Science, Mathematics
Liberal Arts	English Literature, Religious Education, Geography, History
Commercial Subjects	Accounts, Commerce, Economics, Computer Studies
Languages	English, Shona, Ndebele, French, German, Latin
Arts	Art, Music
Practical Subjects	Woodwork, Metalwork, Agriculture, Technical Drawing, Fashion & Fabrics, Food & Nutrition

The O-level examinations allow students to proceed and specialise at A level, and they can choose three subjects from those listed below, depending on their specialisation.⁶²

Sciences	Biology, Chemistry, Physics, Mathematics, Further Mathematics
Commercial Subjects	Management of Business/Business Studies, Economics, Accounts, Computer Science
Arts	English Literature, Geography, Shona/Ndebele Language and Literature, Divinity, History, French, Art, Music, Latin, German

In contrast, in South Africa, compulsory basic education comprises the years from Grade 1 to Grade 9 or the period ending at 15 years old, whichever comes first. Grade R, which is the reception year into the schooling system at age 4 turning 5 by 30 June of the year, is not a compulsory grade, and thus, a learner can start Grade 1 without first having gone through Grade R. The phase of learning up to Grade 9 is referred to as the General Education and Training band, and it is further divided into the Foundation Phase, Intermediate Phase and Senior Phase. After completion of Grade 9 (General Education and Training), learners can choose either an academic or a vocational route. An academic route consists of Grades 10, 11 and 12 and is

⁵⁹ ZimEye “Grade 7 Entrance Test Banned” (4 December 2023) <https://www.zimeye.net/2023/12/04/grade-7-entrance-tests-banned/> (accessed 2025-01-28).

⁶⁰ USAP <https://www.usapglobal.org/zimbabwe/education.htm>.

⁶¹ *Ibid.*

⁶² *Ibid.*

included in the Further Education and Training (FET) band; it is not compulsory. Education from Grades R to 12 falls under the national Department of Basic Education as well as the provincial departments of education in the nine provinces. Students who choose a vocational curriculum can enter into FET colleges,⁶³ which fall under the Department of Higher Education and Training under the training aspect of the Department's name.

Below is a table illustrating the various phases of the Basic Education and FET bands in the schooling system:

Phase	Grades in the phase	Language of learning and teaching	Subjects/learning areas
Reception	Grade R	Home language	Home language Mathematics Life skills
Foundation Phase	Grades 1, 2, 3	Home language	1. Home language 2. English (first additional language) is also taught using the home language. 3. Life skills 4. Mathematics
Intermediate Phase	Grades 4, 5, 6	English	1. Home language 2. English (FAL) 3. Mathematics 4. Natural Science & Technology 5. Social Science, History and Geography 6. Life Skills
Senior Phase	Grades 7, 8, 9	English	1. Home language 2. English (FAL) 3. Mathematics 4. Social Sciences 5. Natural Sciences 6. Technology 7. EMS (Economic Management Sciences) 8. Creative Arts 9. Life Orientation

⁶³ Field, Musset and Álvarez-Galván *A Skills Beyond School Review of South Africa* (18 November 2014) https://www.oecd.org/en/publications/a-skills-beyond-school-review-of-south-africa_9789264223776-en.html (accessed 2025-01-28) 20.

FET band	Grades 10, 11, 12	English	Learners register for 7 subjects consisting of: Home language, a language at first additional level, Life Orientation (compulsory), and 4 content subjects chosen from available streams at the school. The streams range from Mathematics and Natural Sciences to Commercial, Technology, History and Geography, and other combinations of subjects. All learners in the FET band must register for either Mathematics or Mathematical Literacy
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A part of the Senior Phase of General Education and Training is offered at the primary school level, which goes up to Grade 7; and Grades 8 and 9 are offered at the secondary school level.⁶⁴ The FET band consisting of Grades 10, 11 and 12 is also the national senior certificate qualification, a qualification at level 4 on the National Qualification Framework (NQF).⁶⁵ This NQF level is a three-year qualification with an exit level and external national examination at the end of Grade 12. Grades 10 and 11 are internally examined.⁶⁶

The differences between the Zimbabwean and South African systems mean that, without properly planned integration strategies, a ZEP dependant child will face barriers at almost every level of study that will make it difficult for them to navigate and integrate into the Zimbabwean education system.

This article notes that expecting ZEP holders to return to Zimbabwe with their children and find them schools to attend is simply unrealistic. The basic

⁶⁴ Southern African Association of Educational Assessment (SAAEA) "A Comparative Report on the Education Landscape of the Countries in the Southern African Association for Educational Assessment" (2014) <https://www.umalusi.org.za/docs/research/2015/harmonization.pdf> (accessed 2025-01-28) 35–36.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

education systems for Zimbabwe and South Africa are neither the same nor harmonised, and the subjects and pedagogical approaches differ significantly. This undoubtedly makes it difficult, especially for children approaching matriculation, to be assimilated and adjust to the education system in Zimbabwe should their parents fail to get them documented in South Africa. Children are vulnerable and at risk of being school dropouts should South Africa persist in its bid to end the ZEP dispensation. In this context, the article explores whether South Africa has any obligation to continue providing basic education for children of ZEP holders and to provide necessary support to parents and children who may choose to continue within the South African education system to complete their matriculation.

4 2 Visa application challenges

Many current permits for Zimbabweans were for low-skilled persons who could never meet the requirements of any work visa requiring skills.⁶⁷ While there are visas such as the critical skills visa, targeting those with skills regarded as critical in South Africa, and the spousal visa, which may allow a spouse of a South African to take up gainful employment, client files from the Chiedza Immigration and Refugee Consultancy show that most ZEP holders who qualified for such visas were encouraged to apply and have already migrated to them over the years. Many existing ZEP holders are, therefore, persons like vendors, domestic workers, gardeners and small, unregistered business owners who cannot meet the visa requirements for any visa, including the general work visa or business visa requirements.⁶⁸ To understand their difficulties in qualifying for other visas, it is acknowledged that some aspects of both the general work visa and the business visa are honourable and meant to ensure that South Africans are not deprived of job or business opportunities in favour of low-skilled foreigners. For instance, for a general work visa, the applicant's company needs to approach the labour department for a labour certificate confirming that the company could not find a South African before it opted to employ a foreigner. The VFS website explains that the applicant for a general work visa must submit a certificate by the Department of Labour confirming the following:

1. Despite diligent search, the prospective employer has been unable to find a suitable citizen or permanent resident with qualifications or skills and experience equivalent to those of the applicant.
2. The applicant has qualifications or proven skills and experience in line with the job offer.
3. The salary and benefits of the applicant are not inferior to the average salary and benefits of citizens or employees occupying similar positions in the Republic.

⁶⁷ Mail and Guardian "Editorial: There's a Crisis Coming" (31 March 2022) <https://mg.co.za/editorial/2022-03-31-editorial-theres-a-crisis-coming/> (accessed 2023-07-11).

⁶⁸ *Ibid.*

4. There is a contract of employment stipulating the conditions of employment and signed by both the employer and the applicant in line with the labour standards in the Republic and that the contract is made conditional upon the general work visa being approved.⁶⁹

To get the labour certificate, the company needs to advertise the job, conduct interviews and satisfy the labour department that a thorough search was done, and that the company could not find a suitable South African or permanent resident.⁷⁰ Once a request for a labour certificate is submitted to the labour department, the labour department will also search its database to see if there is a South African who could be considered for employment by the submitting company.⁷¹ Getting a labour certificate has been labelled “a headache” as it is not only a long and uneconomical process for companies, but companies never succeed in convincing the Department of Labour that they cannot find a low-skilled employee.⁷² Given the reality that most ZEP holders are low-skilled workers who do not possess any critical skills, most companies are unwilling to go through the process of getting labour certificates, meaning that most ZEP holders have already lost jobs or will become undocumented and unemployed migrants.⁷³ Some employers of ZEP holders have assisted their employees by applying to the Minister and establishing good causes for the waiver of the labour certificate. For many ZEP holders who are small business owners, the reality is that the business visa requires R5 million in capital, which is a distant dream for many. Business owners who have approached Chiedza Immigration and Refugee Consultancy have also applied to the Minister for waivers of the business visa requirements, which they cannot meet. It is only after the granting of waivers and the successful application for general work visas that a ZEP holder can apply for a visa in support of their dependant. An extract cited below shows that children are at the centre of the ZEP crisis:

“Amongst the 178 000 ZEP holders, there are at least as many children who either came to South Africa with their Zimbabwean parents or who were born in South Africa after 2010. These families now face a crisis because of the looming cancellation of their legal status in South Africa after living and working here legally for 15 years. Children, who are not in the same position as adults to choose where they live, are at the centre of this crisis, and their rights are affected.

In the four months left before the expiry of the ZEP (on 31 December 2023), all ZEP holders must apply for a different immigration visa. If granted, they will be allowed to remain in South Africa legally, subject to the conditions of their

⁶⁹ VFS “General Work Visa” (2023) <https://visa.vfsglobal.com/one-pager/dha/southafrica/english/index.html#general-work-visa> (accessed 2025-01-28).

⁷⁰ *Ibid.*

⁷¹ Gridadmin “South African General Work Visa – A Tale of Unintended Consequences” (27 October 2015) <https://immigrationspecialists.co.za/southafricangeneralworkvisa/> (accessed 2025-01-28).

⁷² Govender “General Work Visa: Labour Certificate Vs Waiver” (undated) <https://www.workpermitsouthafrica.co.za/general-work-visa-labour-certificate-vs-waiver/> (accessed 2025-01-28).

⁷³ Mail and Guardian <https://mg.co.za/editorial/2022-03-31-editorial-theres-a-crisis-coming/>.

new visa. Similarly, children of ZEP holders are also required to apply for a visa unless they have acquired citizenship in South Africa.”⁷⁴

While there have been massive rejections of waiver applications, there have been some successes after year-long waits,⁷⁵ so the hope is that once such waivers are granted, the applicants can apply for the relevant visas.⁷⁶ Some employees applied for waivers with support from their employers in 2021 and are still waiting for responses from the Department of Home Affairs.⁷⁷ It is only after the granting of waivers and then the successful application for general work visas that the ZEP holder can apply for a visa in support of their dependant.

While parents wait to apply successfully for new visas, the extensions of their stay in South Africa do not yet cover their children, and the Immigration Act⁷⁸ is clear that schools are not allowed to enrol foreign children without a visa, making the discussion on their education urgent. While the South African government expects children of ZEP holders to move to mainstream student visas, such decisions depend on what the children’s parents can afford; they must fund student visa applications, which require proof of financial means, as well as accommodation and medical aid. Many ZEP holders are low-paid workers whose jobs are in the informal and small business sectors; they are domestic workers, shopkeepers, garden workers and workers in other jobs for which they are often paid on hand and not in the bank. These categories of worker may not be able to provide the bank statements and proof of income required for a successful application for a study visa. The application for a study visa also requires proof of accommodation, but low-income earners on ZEPs are also likely to have their employment contracts terminated upon expiry of the ZEP visa as employers fail to support them with the costs needed to change from ZEP to mainstream visa. An honourable employer may assist an employee to change from a ZEP to a mainstream general work visa, which requires advertising in the newspapers, a valid job offer and a competitive salary. However, a small business owner may fail to provide such assistance to allow the migrant worker then to secure an income and accommodation for their children. The cessation of the ZEP dispensation after over 10 years of various dispensations will undoubtedly affect many children of ZEP holders in the basic education system. Despite other visas, such as the critical skills visa targeting those with skills regarded as critical in South Africa, and the spousal visa, which may allow a spouse of a South African to take up gainful

⁷⁴ Chauke “Centre for Child Law & Lawyers for Human Rights Release Guide for Children Affected by Zimbabwean Exemption Permit” (28 August 2018) <https://www.lhr.org.za/lhr-news/press-statement-centre-for-child-law-lawyers-for-human-rights-release-guide-for-children-affected-by-zimbabwean-exemption-permit/> (accessed 2025-01-28).

⁷⁵ Mutandiro “Foreign Tech Workers Hit Hard by South Africa’s New Immigration Laws” (14 September 2023) <https://restofworld.org/2023/south-african-immigration-laws-labor-pool/> (accessed 2025-01-28).

⁷⁶ Visa Immigration SA “Department of Home Affairs: Delays and Backlog” (11 April 2022) <https://www.visaimmigrationsa.co.za/departement-of-home-affairs-delays-and-backlog/> (accessed 2023-08-11).

⁷⁷ *Ibid.*

⁷⁸ 13 of 2002.

employment, most ZEP holders who qualify for these visas have already migrated to them over the years.

4 3 The challenging provisions of the Immigration Act

The Immigration Act prescribes that South African public schools have no authority to enrol children of a foreign nationality whose stay is not regularised within South Africa.⁷⁹ The child's stay in South Africa, therefore, depends on the parents' or guardians' immigration compliance or the possession of a study visa. The challenge is that minor children seeking a study visa in South Africa need to show evidence of a guardian who will take care of them and who is legally documented, and the child must also provide proof of financial security. Undocumented parents cannot legally undertake to be with their children, and nor can they produce proof of employment in a country where they do not have an automatic right to work. As a result, children of Zimbabwean migrants face enormous difficulties in accessing the South African educational system, leading to lower school attendance rates for these children.

4 4 The state of Zimbabwean basic education⁸⁰

A realistic description of the current violations of the right to basic education by Zimbabwe justifies the need for serious consideration to ensure that South Africa does not send children to Zimbabwe by force, thus participating in a reckless, irreversible violation of the right to basic education for children of ZEP holders. Sending children to Zimbabwe under the circumstances described below defies the whole "compassionate argument" advanced when South Africa first issued the dispensation for Zimbabwe permits. Education in Zimbabwe does not exhibit the following interrelated and essential features required of any education by international law – "availability, accessibility, acceptability and adaptability".⁸¹ Zimbabwean education continues to suffer "through the decade(s) of economic collapse and political violence, starved of funding, abandoned by teachers, who left children to fend for themselves without much opportunity for learning."⁸² The situation has not improved today, as Zimbabwe still fails to recover from hard economic realities. While children would be moving from better-resourced schools in South Africa, they cannot be expected to transition smoothly in public schools that lack basic infrastructure, like laboratories and libraries, as

⁷⁹ S 39(1) and (2) of the Immigration Act 13 of 2002.

⁸⁰ Kanyongo "Zimbabwe's Public Education System Reforms: Successes and Challenges" 2005 6(1) *International Education Journal* 67–69.

⁸¹ UNESCO "Right to education: Scope and Implementation; General Comment 13 on the right to education, Art. 13 of the International Covenant on Economic, Social and Cultural Rights" (2003) <https://unesdoc.unesco.org/ark:/48223/pf0000133113> (accessed 2025-01-28).

⁸² Ndlovu "Zimbabwe's Educational Legacy From the 1980s: Was It All So Rosy?" (25 May 2023) <http://www.thezimbabwean.co/2013/05/zimbabwes-educational-legacy-from-the/> (accessed 2025-01-28).

well as desks, chairs and textbooks. Some children in Zimbabwe learn under the tree as “Zimbabwe needs an extra 2 056 schools to decongest schools that have the hot-seating system and reduce distances [in excess of 24 km] which pupils are walking to school”.⁸³ The Minister of Education has reported that children learn in tobacco barns and under trees with no furniture, classrooms are in a deplorable state, and 1 500 satellite schools need to be massively rehabilitated.⁸⁴ All the above situations mean that basic education in Zimbabwe is not “available” as the Committee on Economic, Social and Cultural Rights regards available education to be where functional education institutions (schools) are of sufficient quantity.⁸⁵

Many employers terminated their ZEP holders’ contracts when the Minister announced the termination of the ZEP. The parents are now jobless, but basic education in Zimbabwe is paid for, and there is no provision for no-fee schools or any fee exemption. Access to education is a new challenge facing ZEP dependants of possibly unemployed parents. An evaluation report by the Training and Research Support Centre with the Zimbabwe Teachers Association estimated that of 3.6 million children who were at the age of attending primary and secondary schooling an estimated 1 million needed financial assistance.⁸⁶ Of the 2.8 million children who were of primary school-going age, it was estimated that 28 per cent needed financial assistance and only 16 per cent received assistance in 2011.⁸⁷ Zimbabwe has openly disregarded General Comment No. 13, which requires accessible education in the form of free education for children who cannot afford it.⁸⁸ In 2015, the government of Zimbabwe stated that in addition to the legal requirement that all parents must pay school fees, it was introducing Grade 7 examination fees, which means that children between the ages of 11 and 13 have to pay to write examinations to proceed to secondary school.⁸⁹ The Grade 7 examination fees, in addition to being in violation of international law, are a practical obstruction to accessing education for children who are vulnerable to having jobless parents.⁹⁰ Evidence shows that Zimbabwe’s education of children cannot be acceptable. It has been estimated that about 300 000 children drop out of school each year owing to economic hardships.⁹¹ This translates over a five-year period to 1.5 million dropouts.⁹² Tied to the issue of high dropout rates

⁸³ Staff Reporter “Zimbabwe Needs an Extra 2056 Schools, Minister” (29 September 2014) <https://allafrica.com/stories/201409300180.html> (accessed 2025-01-28).

⁸⁴ *Ibid.*

⁸⁵ Par 6(a) of *General Comment No 13*.

⁸⁶ Training and Research Support Centre (TARSC) with Zimbabwe Teachers Association (ZIMTA) “Tracking the Governance and Accountability of the Basic Education And Assistance Module (BEAM) in Ten Districts of Zimbabwe” (2012) 2, <http://tarsc.org/publications/documents/BEAM%20rep%20final.pdf> (accessed 2023-11-08) 2.

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ Ncube “Zimbabwean Children’s Right To Education Under Serious Threat” (14 April 2015) <http://www.davidcoltart.com/2015/04/zimbabwean-childrens-right-to-education-under-serious-threat/> (accessed 2023-08-11).

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

⁹² *Ibid.*

is the shocking failure rate. In 2021, 33 schools in one province (Manicaland province) reported a 0 per cent pass rate,⁹³ and the country reported an O-level pass rate of 29,41 per cent in 2023 and 28,96 per cent in 2022.⁹⁴ Since 1984, the highest pass rate for O-levels in Zimbabwe has been just 33,19 per cent, achieved in 2024.⁹⁵ The deplorable pass rates have affected not only O levels but also Grade 7 pupils, as exemplified by 88 primary schools in Zimbabwe that reportedly recorded a 0 per cent pass rate in 2020 for Grade 7 examinations.⁹⁶ Zimbabwe has also suffered a massive brain drain, with South Africa being the biggest beneficiary of qualified teachers. As of 2015, the Ministry of Education estimated that in Zimbabwe, 10 341 teachers were unqualified to teach at the primary school level, while 11 519 teachers were unqualified to teach at the secondary school level.⁹⁷ The number of students per qualified teacher was pegged at 42:1 at primary school and 31:1 at secondary school.⁹⁸ It is important to recognise that the hailing of Zimbabwe as having high literacy and numeracy rates is a past glory: children cannot be sacrificed by sending them to Zimbabwe without due consideration for their education. There is no indication that education for children in Zimbabwe is acceptable, accessible or available.

5 RECOMMENDATIONS FOR THE PROTECTION OF THE RIGHT TO BASIC EDUCATION FOR ZEP DEPENDANT CHILDREN

5.1 Joint reintegration strategies: South Africa and Zimbabwe

This article suggests that given the realities faced by ZEP dependant children, many parents facing poverty and visa-related challenges may opt to send their children back to Zimbabwe. It is suggested that Zimbabwe and South Africa should be prepared to assist children of ZEP holders in integrating back into the Zimbabwean basic education system. The integration of children of ZEP holders into the Zimbabwean basic education system is a complex issue, with several factors to consider, such as academic challenges, economic challenges, language barriers and social challenges from lessons learned from experiences of how Zimbabwean

⁹³ ZimEye “33 Schools report 0% Pass Rate”, (20 May 2022) <https://www.zimeye.net/2022/05/20/33-schools-record-zero-passrate> (accessed 2025-01-28).

⁹⁴ Ndoro “2024 ZIMSEC O-Level Results Hit Highest Pass Rate in 40 Years” (17 January 2025) <https://i.harare.com/2024-zimsec-o-level-results-hit-highest-pass-rate-in-40-years/> (accessed 2025-01-18).

⁹⁵ *Ibid.*

⁹⁶ Staff Reporter “88 Primary Schools Record a 0% Pass Rate” (6 February 2021) <https://www.thezimbabwemail.com/education/eighty-eight-88primary-schools-record-0-pass-rate/> (accessed 2023-08-11).

⁹⁷ Ndlovu “Zim Has 20 000 Unqualified Teachers” (11 March 2015) <http://www.herald.co.zw/zim-has-20-000-unqualified-teachers/> (accessed 2023-11-08).

⁹⁸ *Ibid.*

children cope with a new education system in South Africa.⁹⁹ Reintegration also requires resource mobilisation and budget harmonisation to ensure equitable access, and lessons can be drawn from the no-fee school policies of South Africa.¹⁰⁰ Resources can be sourced from the two different governments and civil society in general.¹⁰¹

Support for ZEP dependant children by both South Africa and Zimbabwe can be done by providing free or fee-exempted access to education for all children of Zimbabwe. It is suggested that South African schools assist ZEP dependant children with transfer records from their previous schools to new schools in Zimbabwe to ensure smooth governance in the transfer process.¹⁰² When ZEP dependant children are transferred, they should be assisted in adjusting to the new education system through school-feeding programmes, language support, tutoring, and social-emotional support.¹⁰³ In addition to integration efforts from both Zimbabwe and South Africa, it is suggested that the government engage with non-governmental organisations (NGOs) that can also support children of ZEP holders. Such NGOs may provide financial assistance, tutoring and other forms of support to help children succeed in school.

This article also suggests some specific ways in which children of ZEP holders can be integrated into the Zimbabwean basic education system. This could be through placement in the appropriate grade level depending on their age and academic skills. This may involve assessing their skills and knowledge through standardised tests or interviews. Children need support in relation to language learning. Many children of ZEP holders, especially young ones between Grades 1 and 3, may not be fluent in the languages of instruction in Zimbabwe. Schools can support these children to help them learn the language of instruction. This may involve providing language classes, bilingual instruction or other forms of support. Since many returning ZEP dependant children may have to return to Zimbabwe without their parents, they may need social-emotional support to adjust to the new education system and to feel welcome and accepted.¹⁰⁴ In addition to

⁹⁹ Adebajji, Phatudi and Hartell "Factors Facilitating the Adjustment of Immigrant Children from Zimbabwe on the Foundation Phase to South African Schools" 2014 5 *Mediterranean Journal of Social Sciences* 512 515, 518, 519, 520.

¹⁰⁰ Mestry and Ndlovu "The Implications of the National Norms and Standards for School Funding Policy on Equity in South African Public Schools" 2014 34(3) *South African Journal of Education* 1.

¹⁰¹ Gulzar "Mobilizing Support for Inclusive Education" (20 February 2021) <https://educarepk.com/mobilizing-support-for-inclusive-education.html> (accessed 2025-01-28).

¹⁰² SADC "Education & Skills Development" (undated) <https://www.sadc.int/pillars/education-skills-development> (accessed 2025-01-28).

¹⁰³ Kristjansson, Osman, Dignam, Labelle, Magwood, Huerta Galicia, Cooke-Hughes, Wells, Krasevec, Enns, Nepton, Janzen, Shea, Liberato, Garner and Welch "School Feeding Programs for Improving the Physical and Psychological Health of School Children Experiencing Socioeconomic Disadvantage (Protocol)" 2022 <https://pmc.ncbi.nlm.nih.gov/articles/PMC9400387/pdf/CD014794.pdf> (accessed 2025-01-28) 2.

¹⁰⁴ Tawodzera and Themane "Schooling Experiences of Children Left Behind in Zimbabwe by Emigrating Parents: Implications for Inclusive Education" 2019 39 *Youth African Journal of Education Supplement* S1 S6–S10.

academic and language challenges, children of ZEP holders may face social challenges when integrating into the Zimbabwean basic education system. For example, they may be teased or bullied by other students because of their different languages. They may also miss their friends and family in South Africa. The Zimbabwean government should be aware of the challenges that children of ZEP holders face and should implement some support mechanisms to help them integrate into the basic education system. The government may also introduce several programmes to help students who are struggling academically, such as remedial classes and tutoring.

The spokesperson¹⁰⁵ for the Zimbabwean Ministry of Primary and Secondary Education indicated to *The Herald* newspaper in Harare on 10 January 2023 that Zimbabwean schools are ready to absorb children of ZEP holders. He further indicated that apart from the fact that the Zimbabwean education sector has always absorbed learners from different countries in various grades, Zimbabwe and South Africa have signed a Memorandum of Understanding to work together on education and other related issues. This official view of the Zimbabwean government on the country's readiness to absorb children into the schooling system is countered by the views of parents and other experts on the ZEP termination that there are no preparations and plans in either country to manage the return migration. In December 2022, parents were raising concerns that there was no information on how the integration would be achieved, particularly for ZEP holders who wanted to move back voluntarily to Zimbabwe with their children.¹⁰⁶ What Jonathan Jansen¹⁰⁷ and John Pape¹⁰⁸ have said about the strong foundations of the Zimbabwean education system cannot be anything to go by since their assertions only speak of past glory of the Zimbabwean education. Any system of integration of children into a new system of education needs to be strong on the aspect of inclusivity to be able to address the difficulties involved.¹⁰⁹

5.2 Establishment of a ZEP Children's Integration Programme by Zimbabwe

It is suggested that the Zimbabwean government introduce a long-term programme to integrate children of ZEP holders into the country's basic education system. This programme could include measures such as

¹⁰⁵ Ndoro "Zim Schools Are Ready to Absorb Children of ZEPT Permit Holders" (2023-01-10) *The Herald* [herald.co.zw/zm-schools-readyto-absorb-children-zep-permit-holders](https://www.herald.co.zw/zm-schools-readyto-absorb-children-zep-permit-holders) (accessed 2023-08-11).

¹⁰⁶ Chiguvare "Zimbabwean Parents Worried About Learners' Move From Schools in South Africa" (14 December 2022) <https://www.groundup.org.za/article/no-clear-plan-for-state-assistance-to-families-voluntarily-returning-to-zimbabwe/> (accessed 2025-01-28).

¹⁰⁷ Jansen "SA Can Learn a Thing or Two From the Zimbabwean Education System" (30 November 2017) <https://www.timeslive.co.za/ideas/2017-11-30-sa-can-learn-a-thing-or-two-from-zimbabwes-education-system/> (accessed 2025-01-28).

¹⁰⁸ Pape "Changing Education for Majority Rule in Zimbabwe and South Africa" 1998 *Comparative Education Review* 253.

¹⁰⁹ VVOB "A Step Towards Inclusivity in Zimbabwean Education" (11 August 2016) <https://www.vvob.org/en/news/step-towards-inclusivity-zimbabwean-education> (accessed 2025-01-28).

exempting children from paying school fees at public schools and providing free textbooks and other learning materials. Children of ZEP holders could be provided with free textbooks and other learning materials by the government. Teachers should also be trained to support children of ZEP holders with different educational needs. The government may also need to provide psychosocial support services to children of ZEP holders through schools and community organisations. In addition, the government could also work to increase the number of schools and classrooms in the country to accommodate the growing number of students. This would help to ensure that all children, including children of ZEP holders, have access to quality education.

5 3 Cooperation with SADC countries to mitigate the challenges of the ZEP dependant child

While SADC countries have agreed through the SADC Protocol on Education and Training that cooperation must take place among member states in areas of “curriculum design and development”, and that education systems must be comparable and harmonised, the reality is that the South African and Zimbabwean curriculums are vastly different in form, structure and content.¹¹⁰ There is no joint development or cooperation in the development of curriculums, national examinations or standardisation of certification.¹¹¹ A serious commitment to regional obligations and aspirations should obligate SADC to commit to humane migration and to regional commitments as mandated by the Protocol on the Free Movement of Persons, which guarantees the right to free movement of persons within the SADC region.¹¹² SADC should work with organisations such as the International Organisation for Migration (IOM), which supports the integration of migrants and their children into communities.¹¹³ A broader goal should be to align and harmonise the curriculums for the entire region and to promote harmonisation and equivalence of education and training qualifications¹¹⁴ within the SADC region.¹¹⁵ Facilitating the movement of students, teachers, and other education and training personnel¹¹⁶ within the SADC region is also important. The Zimbabwean government could develop a system for recognising and validating the education qualifications of ZEP holders’

¹¹⁰ Kallaway “Education in South Africa and Zimbabwe” 2005 *Journal of Southern African Studies* 673–676.

¹¹¹ *Ibid.*

¹¹² Hirsch “African Countries Are Stuck on the Free Movement of People. How to Break the Logjam” (20 January 2022) <https://saiia.org.za/research/african-countries-are-stuck-on-the-free-movement-of-people-how-to-break-the-logjam/> (accessed 2025-01-28).

¹¹³ The International Organization for Migration (IOM) is a United Nations agency that provides services and advice concerning migration to governments and migrants, including internally displaced persons, refugees and migrant workers, and has its headquarters in Geneva, Switzerland.

¹¹⁴ Alharbi “Implementation of Education 5.0 in Developed and Developing Countries: A Comparative Study” 2023 *Creative Education* 914.

¹¹⁵ SADC <https://www.sadc.int/pillars/education-skills-development>.

¹¹⁶ South African Institute of International Affairs (SAIIA) “A Strategic Consideration of the African Union Free Movement of Persons Protocol and Other Initiatives Towards Free Movement of People in Southern Africa”.

children who have completed their primary or secondary education in South Africa. This would allow ZEP holders' children to continue their education in Zimbabwe without repeating any grades. The Zimbabwean government could work with the South African government to develop joint teacher training programmes.¹¹⁷ This would help to ensure that teachers in each country were familiar with the curriculums and teaching methods of the other. This would make it easier for ZEP holders' children to transfer from the South African to the Zimbabwean education system. The Zimbabwean government could work with the South African government to develop joint student exchange programmes. This would also allow ZEP holders' children to spend time studying in Zimbabwe while they are still completing their primary or secondary education in South Africa. This would also help to prepare ZEP holders' children for transition to the Zimbabwean education system.

6 CONCLUSION

This article, drawing from the study of the files of real experiences and struggles of migrant children, has discussed the effects of discontinuing the ZEP visa regime on children attending school in South Africa, highlighting these effects as a matter for urgent consideration, given the importance of basic education in a child's life. It noted that the readiness of both South Africa and Zimbabwe for the return of ZEP holders to Zimbabwe is a complex issue with no easy answers. It is reasoned that, while South Africa has allowed the ZEP holders to apply for mainstream visas and then join dependants to their applications, such transitional measures pose challenges because education cannot wait for parents to apply for visas, and for processing of applications and only commence when visas are issued. South Africa has not even offered a fast-track application process for affected ZEP holders with dependants, particularly minor dependant children. An analysis of the curriculum templates has shown that Zimbabwe's basic education system differs in both form and content from South Africa's basic education system.¹¹⁸ With different pedagogical approaches, an entire generation of children of ZEP holders is at risk of being denied a chance to acquire a basic education. Accordingly, there needs to be a focus placed on evaluating both countries' international obligations for the provision of basic education to affected children. South Africa, currently the host country, carries the greater burden of compliance with these international obligations to support the integration project and ensure the success of transitional arrangements.

¹¹⁷ SADC <https://www.sadc.int/pillars/education-skills-development>.

¹¹⁸ USAP <https://www.usapglobal.org/zimbabwe/education.htm>.