# There is Nothing Xenophobic About Denying Services to Illegal Migrants

Luvo Kasa[1]

### Abstract

*South Africa, a key economic hub in sub-Saharan Africa, faces a significant influx of undocumented migrants seeking socio-economic stability, prompting debates on their access to public services such as healthcare, education, and welfare. This paper examines whether denying services to undocumented migrants reflects legitimate governance or veiled xenophobia, navigating the tension between the Immigration Act No. 13 of 2002, which prioritises citizens, and constitutional human rights commitments. Utilising a narrative literature review and theoretical frameworks—Human Rights Perspective, Anti-Oppressive Practice, Ecological Systems Theory, and Strengths-Based Perspective—the study explores systemic exclusions and ethical challenges for social workers. Findings suggest that, while framed as pragmatic, service denial exacerbates inequality and fuels xenophobic attitudes, necessitating inclusive, rights-based policy reforms to align with constitutional and ethical mandates.*

**Keywords:** *Undocumented Migrants, Social Work Ethics, Human Rights, Xenophobia, Immigration Policy, Service Denial, Legal Sovereignty.*

## Introduction

South Africa's position as a regional economic hub in sub-Saharan Africa has positioned it as a primary destination for migrants seeking safety, improved livelihoods, and socio-economic stability (Mlambo, 2018; Moyo & Nshimbi, 2017). The influx of undocumented and irregular migrants residing in the country without formal legal authorisation has, however, generated significant public and policy debate, particularly concerning access to public services such as healthcare, education, and welfare. At the core of this debate lies the South African Immigration Act No. 13 of 2002, which outlines the legal framework governing immigration and resource entitlements. The Act prioritises citizens, permanent residents, and individuals with valid permits, while generally excluding undocumented immigrants from accessing non-emergency services. Section 5 of the Act underscores the importance of legal status in determining eligibility for socio-economic rights, reflecting a policy stance to preserve national sovereignty and effectively manage limited public resources. In contrast, Section 44 indicates that state organs are required to verify the status or citizenship of individuals accessing services and report illegal foreigners to the Department of Home Affairs.

This legislative position, however, exists in tension with South Africa's constitutional commitment to universal human rights. The Constitution and the National Health Act 61 of 2003 advocate for inclusive access to basic services for "everyone," regardless of legal status. Nevertheless, legislative and policy inconsistencies, especially between the Immigration Act No. 13 of 2002 and newer policy instruments such as the National Health Insurance Bill [now Act

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[1] Department of Social Work Walter Sisulu University, Email: lkasa@wsu.ac.za, https://orcid.org/0000-0003-2988-2070.

No. 20 of 2023], have produced fragmented interpretations and implementations across different provinces (White & Rispel, 2021). Consequently, undocumented migrants are often denied access to essential services, with healthcare access being exceptionally constrained (Alfaro-Velcamp, 2017). Some scholars argue that this exclusion is exacerbated by systemic challenges within the public health sector, including fiscal constraints, infrastructure shortages, and administrative inefficiencies, all of which disproportionately affect migrants and other marginalised groups (Dhai & Mahomed, 2018).

While human rights advocates, such as the South African Human Rights Commission (SAHRC), argue for the extension of socio-economic rights to all individuals within the country, basing their arguments on sections 27 and 28 of the Constitution, they often fall short of acknowledging the complexity of the practical implications of their position. South Africa's healthcare system faced significant strain in 2023, operating with only 0.7 doctors per 1,000 people. In such a context, prioritising access becomes a necessary, albeit contentious, policy decision. As such, this paper argues that, despite being grounded in the rights-based discourse, the SAHRC's position seems to overlook the state's limitations and risks exacerbating public resentment, particularly among communities already burdened by poverty and service backlogs (Neely & Ponshunmugam, 2019; Solanki et al., 2020).

From a social work perspective anchored in principles of human dignity, social justice, and anti-oppressive practice, the exclusion of undocumented migrants from essential services presents a profound ethical dilemma (Jolly, 2018; Mpofu, 2021). Although such policies may not be inherently xenophobic, as they focus on legal status rather than nationality, they often result in exclusionary practices that conflict with social work's commitment to equity and non-discrimination. Denial of services may reinforce systemic inequalities, intensify social vulnerability, and contribute to the emergence of xenophobic attitudes. Mpofu (2021) critiques the South African Department of Social Development's approach to irregular migrant children, advocating for an anti-oppressive and rights-based response. Roestenburg (2014), along with Van der Westhuizen and Kleintjes (2015), calls for the development of clear policy guidelines, training, and institutional support to enable social workers to respond ethically and effectively to the needs of migrants. These contributions underscore the necessity for critical reflection, advocacy, and reform to ensure that migration governance aligns with the ethical imperatives of social work practice. Thus, this article aims to critically examine the rationale and implications of denying public services to undocumented migrants in South Africa. It interrogates whether such exclusion constitutes a legitimate governance strategy in a resource-constrained context or a veiled form of xenophobia that contradicts constitutional and ethical obligations.

## Methodology: Narrative Literature Review

This study utilised a narrative literature review methodology, which is well-suited for critically synthesising diverse bodies of literature and offering conceptual insights. The study drew from legal, policy, and social work literature, integrating empirical findings and normative discussions from peer-reviewed articles, legislation, government reports, and international human rights instruments. The literature was organised thematically under headings such as historical context, legal frameworks, ethical principles, social cohesion, and implications for social work. This allowed for a critical exploration of the multidimensional impact of service denial policies on undocumented migrants. The review was informed by four theoretical frameworks: Human Rights Perspective, Anti-Oppressive Practice, Ecological Systems Theory, and Strengths-Based Perspective, which guided the interpretation and integration of literature in relation to social

work practice. Through this narrative approach, the paper interrogated underlying assumptions in the "services denial" debate and highlighted systemic issues, such as legal inconsistency, institutional xenophobia, and the social work profession's ethical obligations. This methodology facilitated a comprehensive, multi-perspective critique without the constraints of primary data collection, making it particularly useful for exploring ethically charged and policy-related issues in migration and social work.

## Historical Context of Migration in South Africa

To fully grasp the complexities surrounding the denial of services to undocumented immigrants, it is crucial to contextualise South Africa's migration history. Migration to the region predates the establishment of its modern borders, with formal labour migration systems institutionalised during the colonial and apartheid eras. The discovery of gold and diamonds in the late nineteenth century prompted the recruitment of workers from neighbouring countries such as Mozambique, Lesotho, and Malawi, who were employed primarily in mining and agriculture. Although these migrants were often subjected to exploitative labour conditions, their contributions were foundational to South Africa's economic development (Peberdy, 2018; Suping, 2022). Suping (2022) describes this historical labour migration system as entrenched regional economic interdependence and shaping South Africa's diplomatic relations with countries such as Botswana and Lesotho, maintaining a steady flow of cross-border labour for over a century. According to Tshabalala (2024), in response to ongoing labour demands and regional mobility challenges, the South African government has periodically introduced exemptions to regularise the employment of undocumented migrants. Zeze (2024) adds that religious institutions such as the Dutch Reformed Church Mission historically supported migrant communities, offering important lessons for contemporary faith-based engagement with migration. These historical dynamics continue to inform current immigration policies and the broader socio-economic landscape in South Africa (Peberdy, 2018).

Since the democratic transition in 1994, post-apartheid South Africa has emerged as a primary destination for migrants across Africa, drawn by its relative stability and economic opportunities (de Jager & Musuva, 2016; Peberdy, 2018). Various scholars contend that crises in neighbouring countries, particularly Zimbabwe's governance failures, have driven significant migration, with millions seeking refuge or livelihoods (de Jager & Musuva, 2016; Megersa & Tafesse, 2024). Megersa and Tafesse (2024) analysed the Department of Home Affairs. They extracted that, by 2023, the United Nations estimated that South Africa hosted over 2.9 million international migrants, including refugees, asylum seekers, and approximately 1 million undocumented individuals. However, South Africa's response has been shaped by a foreign policy slow to acknowledge Zimbabwe's crisis, leading to heightened border securitisation (de Jager & Musuva, 2016). This has fueled human smuggling and left migrants in precarious situations (Moyo, 2020). Recent trends indicate a decline in irregular migration, driven by stricter legal measures and the impact of the COVID-19 pandemic (Hailu Megersa & Tafesse, 2024).

South Africa grapples with significant challenges stemming from undocumented migration and xenophobia, driven by economic pressures and social tensions (Mlambo et al., 2023). According to literature, high unemployment (32.9% in 2023) and widespread poverty (55% of the population below the poverty line in 2023) fuel anti-immigrant sentiments, with foreign nationals often scapegoated for policy failures (Mlambo et al., 2023; Chisadza, 2024). According to Masinga and Lelope (2020), competition for jobs, housing, and services, particularly in township areas, exacerbates tensions, leading to discrimination and a lack of support for

immigrants. Moreover, Massay and Susan (2023) revealed that high-profile xenophobic attacks, such as those in 2008 that killed 62 people and displaced thousands, and the 2019 protests targeting foreign-owned businesses in Johannesburg, underscore these conflicts. Negative attitudes, fuelled by perceptions that immigrants increase crime and strain resources, persist despite some South Africans' openness to migrants (Chisadza, 2024). Policies denying services to undocumented immigrants, often framed as prioritising citizens, raise ethical concerns about fairness and humanity for social workers (Masinga & Lelope, 2020). Studies posit that addressing xenophobia demands a multifaceted approach, including economic growth, improved communication between locals and immigrants, and coordinated support services to foster integration (Mlambo et al., 2023; Masinga & Lelope, 2020).

## Legal and Policy Framework

South Africa's immigration and health policies, primarily the Immigration Act of 2002 and the Refugees Act of 1998, create significant barriers for undocumented migrants and refugees seeking healthcare and education, despite constitutional guarantees of these rights for all (Alfaro-Velcamp, 2017; White & Rispel, 2021). Hospital administrators often require documentation before providing care, excluding many undocumented migrants. Similarly, the South African Schools Act of 1996 restricts undocumented and stateless children's access to education by mandating proof of legal status (Alfaro-Velcamp, 2017; Mahleza & Maake-Malatji, 2024). Adolescent migrants face additional hurdles accessing sexual and reproductive health services due to conflicting health and migration policies (Mukondwa & Gonah, 2016). The proposed National Health Insurance system risks further limiting healthcare based on legal status, exacerbating exclusion driven by policy inconsistencies, resource constraints, and reported medical xenophobia (White & Rispel, 2021).

Although the Constitution guarantees healthcare access for all, the Immigration Act of 2002 and National Health Act of 2003 restrict non-emergency care for non-residents, causing confusion and exclusion, particularly for undocumented migrants (White & Rispel, 2021). Reports of "medical xenophobia" and discrimination highlight financial and institutional barriers for undocumented migrants (Chirau et al., 2024). However, some healthcare providers prioritise biomedical needs over legal status, enabling inclusive care despite challenges (Vanyoro, 2019). Resource constraints worsen inequities, with South Africa's public health system—serving over 80% of the population—strained by only 0.7 doctors per 1,000 people in 2023, compared to a global average of 1.5 (White & Rispel, 2021). Proponents of restrictive policies argue they are necessary to manage limited resources and prioritise citizens, citing overcrowded schools (with up to 10% non-citizen students in Gauteng and Western Cape) and strained infrastructure (Department of Basic Education, 2024). These tensions underscore the need for policy reform to ensure equitable healthcare access in pursuit of universal health coverage.

Constitutional guarantees of emergency healthcare (Section 27) and children's education (Section 28) are inconsistently applied due to bureaucratic barriers and unclear legal status (Alfaro-Velcamp, 2017). Healthcare workers face ethical dilemmas when policies like the Immigration Act of 2002 and the National Health Act of 2003 restrict non-emergency care, prompting "workarounds" to align with professional norms (Fabi & Taylor, 2019). Similarly, social workers, guided by the Children's Act, encounter dilemmas in schools, where undocumented children are often excluded due to documentation requirements (Reyneke, 2020). The case of migrant children intercepted en route to Cape Town illustrates how social workers may inadvertently marginalise vulnerable migrants, rendering them voiceless instead of

protected (Mpofu, 2021). These inconsistencies, compounded by resource constraints (e.g., 0.7 doctors per 1,000 people in 2023) and reported medical xenophobia, highlight the urgent need for policy reform to ensure equitable healthcare and social services, aligning legal frameworks with ethical mandates and international obligations (White & Rispel, 2021; Chirau et al., 2024).

## Social Work Principles and Ethical Dilemmas

Social work in South Africa is anchored in ethical and professional standards set by the South African Council for Social Service Professions (SACSSP) Code of Ethics and guided by the International Federation of Social Workers (IFSW) Global Definition of Social Work. These frameworks collectively underscore the discipline's commitment to human rights, dignity, and social justice. Central to this is the recognition of the inherent worth of every individual, regardless of their social or economic status, thereby promoting human dignity as a core value. Social justice remains a fundamental pillar, compelling social workers to advocate for fair and equal access to resources, services, and opportunities for all members of society. Additionally, the principle of non-discrimination mandates practitioners to actively resist and challenge any form of bias or exclusion based on race, nationality, gender, sexual orientation, or other markers of identity. Advocacy is another key aspect, as social workers are ethically bound to confront unjust structures and policies that perpetuate inequality, with the aim of fostering systemic change. Collectively, these ethical imperatives shape the professional identity of social workers in South Africa and reinforce their role in advancing equity and human rights within diverse and often complex social contexts.

Undocumented immigrants in South Africa encounter significant obstacles in accessing healthcare and social services, primarily due to unclear legal status and restrictive interpretations of legislation by hospital administrators (Alfaro-Velcamp, 2017). These barriers exacerbate vulnerabilities, including poverty, exploitation, and lack of legal protection, which characterise the lived experiences of asylum seekers, refugees, and undocumented migrants. The absence of clear legal frameworks governing healthcare access for undocumented individuals often results in inconsistent service provision across public health facilities (Vearey, 2018).

The Scalabrini Centre's 2023 study revealed that 60% of undocumented immigrants in Cape Town lacked access to primary healthcare, contributing to heightened risks of untreated chronic conditions such as tuberculosis and HIV/AIDS (Scalabrini Centre, 2023). Such exclusion not only jeopardises the health of these individuals but also poses broader public health risks. According to Vearey et al. (2019), delayed or absent treatment for communicable diseases increases transmission rates within communities, underscoring the need for inclusive healthcare policies.

Social work practice in South Africa bears a moral and professional responsibility to address the needs of undocumented immigrants, who constitute a particularly vulnerable population (Gonzales & Collado, 2024). The compounding effects of socio-economic marginalisation and restricted service access necessitate targeted interventions. Denying healthcare to undocumented immigrants contradicts the principles of social justice and human rights embedded in South Africa's Constitution, which emphasises equitable access to basic services for all residents (Republic of South Africa, 1996). The systemic barriers faced by undocumented immigrants in accessing healthcare in South Africa demand urgent policy reform and advocacy. Social work, as a discipline, must prioritise these individuals as a special category of concern, ensuring their vulnerabilities are addressed through inclusive service provision and robust legal protections.

To this end, denying services undermines human dignity by prioritising legal status over basic needs. The IFSW's ethical guidelines stress that access to healthcare and education is a human right, as outlined in the Universal Declaration of Human Rights (Articles 25 and 26). Excluding undocumented immigrants from these services can perpetuate cycles of poverty and marginalisation, contradicting social work's commitment to social justice. Inopportunely, these policies can inadvertently reinforce xenophobic attitudes. While the intent may be to manage resources, the public narrative often frames immigrants as "burdens" or "competitors," fuelling resentment. Social workers witness this in communities where tensions over jobs and services lead to hostility, as seen in the 2015 xenophobic violence in Durban, where 7 people were killed. Such policies risk legitimising negative stereotypes, making it harder for social workers to promote social cohesion.

## Theoretical Frameworks

The study adopted multiple theoretical frameworks to analyse this issue, viz, Human Rights Perspective, Anti-Oppressive Practice (AOP), Ecological Systems Theory, and Strengths-Based Perspective. This provided a comprehensive and multidimensional approach to analysing the systemic challenges undocumented immigrants face in South Africa. Each framework contributed unique insights and strategies, enabling a robust analysis of the issue and guiding social work practice toward effective interventions.

## Human Rights Perspective

The human rights framework, grounded in international instruments such as the Universal Declaration of Human Rights, establishes access to healthcare, education, and basic welfare as fundamental entitlements, irrespective of legal status (United Nations, 1948). This framework underpins advocacy for inclusive policies in South Africa, aligning with constitutional commitments to socio-economic rights under Sections 27 and 28 of the Constitution, which guarantee access to healthcare and basic services for all residents (Republic of South Africa, 1996). Denying services to undocumented immigrants contravenes these constitutional obligations and international non-discrimination standards, necessitating robust policy interventions (Fuo, 2020).

However, applying human rights principles in South Africa reveals significant challenges. Some municipalities impose citizenship requirements for accessing free basic services, a practice that potentially violates non-discrimination obligations embedded in both domestic and international human rights law (Fuo, 2020). This restriction exacerbates the vulnerabilities of undocumented immigrants, who face systemic barriers due to unclear legal status, particularly in accessing healthcare (Alfaro-Velcamp, 2017). For instance, restrictive interpretations of legislation by service providers often limit undocumented immigrants' ability to secure primary healthcare, despite constitutional protections (Vearey, 2018).

The disjuncture between South Africa's statutes, regulations, and constitutional provisions regarding migrants' rights underscores a critical policy gap. While the Constitution mandates equitable access to services, practical implementation often falls short, reflecting tensions between legal frameworks and administrative practices (Alfaro-Velcamp, 2017; Fuo, 2020). As a principle, progressive realisation acknowledges resource constraints but requires measurable steps toward fulfilling socio-economic rights for all, including undocumented immigrants (Republic of South Africa, 1996). Social work practice, guided by human rights principles, must therefore advocate for policies that bridge this gap, ensuring that legal status does not determine

access to essential services.

Thus, the human rights framework provides a compelling basis for advocating inclusive service access for undocumented immigrants in South Africa. Aligning policies with constitutional and international obligations demands addressing systemic barriers and promoting the progressive realisation of socio-economic rights. As a discipline, social work plays a pivotal role in this advocacy, challenging discriminatory practices and fostering equitable access to healthcare and welfare.

**Anti-Oppressive Practice**

Anti-Oppressive Practice (AOP) provides a critical framework for addressing systemic power imbalances that marginalise groups based on race, nationality, or legal status. In South Africa, denying services to undocumented immigrants constitutes an oppressive practice, disproportionately affecting African migrants from economically disadvantaged nations, such as Zimbabwe and the Democratic Republic of Congo, and reinforcing stereotypes and exclusion (Vearey, 2018). AOP guides social work advocacy toward structural reforms, such as streamlined asylum processes or temporary access to essential services, to mitigate systemic inequities and promote social justice (Misago & Landau, 2020).

Research highlights variations in social workers' attitudes toward immigrants in South Africa, with more favourable perceptions of permanent residents and refugees than undocumented immigrants (Bhuyan et al., 2024). A significant proportion of practitioners lack awareness of the structural inequalities impacting undocumented immigrants, often underestimating the extent of disadvantage faced by this group compared to South African citizens (Palmary, 2016). For instance, restrictive administrative practices in healthcare facilities frequently exclude undocumented immigrants, exacerbating vulnerabilities like poverty and lack of legal protection (Alfaro-Velcamp, 2017). These practices reflect systemic xenophobia embedded in institutional frameworks, which AOP seeks to challenge.

AOP emphasises the need for social work education and training to equip practitioners with the tools to address systemic racism and xenophobia within South African service provision (Hölscher & Bozalek, 2020). By advocating for policy changes, such as inclusive healthcare access or simplified documentation processes, social workers can counteract the marginalisation of undocumented immigrants. For example, the Scalabrini Centre's 2023 findings underscore how exclusion from primary healthcare increases health risks for undocumented immigrants, highlighting the urgency of anti-oppressive interventions (Scalabrini Centre, 2023).

To this end, AOP offers a vital lens for addressing the systemic barriers faced by undocumented immigrants in South Africa. By challenging oppressive institutional practices and advocating for structural reforms, social work practice can align with constitutional commitments to equality and non-discrimination (Republic of South Africa, 1996). Enhanced education and training are essential to prepare practitioners to support this vulnerable population and dismantle systemic inequities effectively.

**Ecological Systems Theory**

Ecological Systems Theory provides a framework for understanding the challenges undocumented immigrants face within their environmental contexts, encompassing individual, community, and societal systems (Todd et al., 2020). In South Africa, undocumented immigrants encounter barriers at multiple levels: individual (lack of valid documentation), community

(social exclusion and xenophobia), and societal (restrictive immigration and healthcare policies) (Vearey, 2018). This framework guides social work interventions by addressing these interconnected barriers through targeted strategies, such as community education to reduce stigma and policy advocacy to promote systemic change (Hölscher & Bozalek, 2020).

At the individual level, the absence of legal documentation restricts access to essential services like healthcare, exacerbating vulnerabilities such as untreated chronic conditions (Scalabrini Centre, 2023). At the community level, xenophobic attitudes and social exclusion marginalise undocumented immigrants, limiting their integration and access to support networks (Misago & Landau, 2020). At the societal level, restrictive policies, including narrow interpretations of healthcare access regulations, create systemic barriers undermining constitutional guarantees of socio-economic rights (Alfaro-Velcamp, 2017; Republic of South Africa, 1996). For instance, the Scalabrini Centre's 2023 study found that 60% of undocumented immigrants in Cape Town lacked access to primary healthcare, highlighting the interplay of these systemic barriers (Scalabrini Centre, 2023).

Ecological Systems Theory emphasises the person-in-environment as a single entity, enabling a comprehensive understanding of undocumented immigrants' challenges (Greene, 2017). Social work practice can challenge oppressive systems while promoting personal healing by integrating micro-level interventions, such as counselling to address individual trauma, with macro-level advocacy, such as pushing for inclusive healthcare policies (Carrillo & O'Grady, 2018). This approach aligns with anti-oppressive practice in South Africa, fostering structural reforms to address xenophobia and ensure equitable service access (Hölscher & Bozalek, 2020).

As such, Ecological Systems Theory offers a robust framework for addressing the multifaceted barriers faced by undocumented immigrants in South Africa. By designing interventions that span individual, community, and societal levels, social work practice can mitigate systemic inequities and uphold constitutional commitments to equality and non-discrimination (Republic of South Africa, 1996). This holistic approach underscores the need for integrated strategies to support undocumented immigrants and promote social justice.

**Strengths-Based Perspective**

The Strengths-Based Perspective emphasises the resilience and capacities of individuals and communities, offering a framework to empower undocumented immigrants in South Africa who navigate hostile environments marked by xenophobia, policy restrictions, and socio-economic exclusion (Vearey, 2018). By focusing on inherent strengths, such as adaptability and community networks, social work practice can foster empowerment through interventions like skills training, community-based support systems, and advocacy groups, enabling access to alternative resources despite systemic barriers (Hölscher & Bozalek, 2020).

Undocumented immigrants in South Africa demonstrate remarkable resilience in overcoming challenges, such as securing informal employment or building solidarity networks within migrant communities (Misago & Landau, 2020). Research highlights that African migrants, particularly from countries like Zimbabwe and Somalia, employ cognitive reframing, sociability, and cultural pride to foster meaning, purpose, and hope in adversity (Palmary, 2016). For example, community-led initiatives in urban centres like Johannesburg have enabled undocumented immigrants to access informal healthcare services through peer networks, showcasing their resourcefulness (Scalabrini Centre, 2023).

Social work interventions grounded in the Strengths-Based Perspective can build on these

capacities by providing culturally sensitive resources tailored to undocumented immigrants' needs. Programs offering skills development, such as vocational training or facilitating community advocacy groups, can enhance resilience and counteract barriers in healthcare and employment (Vearey et al., 2019). For instance, initiatives by organisations like the Scalabrini Centre have supported undocumented immigrants in Cape Town through legal literacy workshops, empowering them to navigate bureaucratic systems (Scalabrini Centre, 2023).

The Strengths-Based Perspective provides a vital framework for social work practice with undocumented immigrants in South Africa. By leveraging their resilience and community networks, interventions can promote empowerment and access to resources, aligning with constitutional commitments to equality and dignity (Republic of South Africa, 1996). Strengthening social work education to incorporate this perspective is essential to support undocumented immigrants effectively and foster social justice.

## The Argument Against Xenophobia

The assertion that service denial policies in South Africa are pragmatic responses to resource constraints merits scrutiny, as it risks obscuring their exclusionary impact under the guise of practicality. Rather than dismissing the challenges of limited resources, a more nuanced perspective recognises that these policies often disproportionately affect foreign nationals, perpetuating marginalisation and social division. South Africa's constitutional framework, which emphasises equality and human dignity, calls for solutions that address systemic issues like economic inequality and inefficiencies in public service delivery without targeting vulnerable migrant communities. Thus, this study shows that sustainable pragmatism lies in fostering inclusive policies, such as equitable resource allocation and economic reforms, that strengthen social cohesion and uphold the nation's commitment to human rights, rather than relying on measures that inadvertently fuel xenophobic perceptions.

## Implications for Social Work

Social work as a profession has both a moral and professional obligation to resist exclusionary service policies that violate human rights, undermine public health, and threaten social cohesion (Jackson, 2020; Mapp et al., 2019). As such, the denial of essential services to undocumented immigrants in South Africa raises profound ethical, public health, and social justice concerns that resonate deeply within the field of social work. Rooted in principles such as human dignity, social justice, and respect for diversity, the social work profession is uniquely positioned to respond to these challenges through direct practice, policy advocacy, research, and community engagement. The exclusion of undocumented migrants from public healthcare, education, and welfare not only undermines basic human rights but also contradicts the South African Constitution and the profession's core ethical values.

The principle of human dignity is foundational to both the South African Constitution and the Global Definition of Social Work. Excluding undocumented immigrants from life-sustaining services, such as healthcare and education, compromises their well-being and reinforces systemic marginalisation. A 2023 report by Médecins Sans Frontières (MSF) found that 70% of undocumented migrants in Johannesburg had unmet health needs, which significantly increased their risk of preventable mortality. From a social work perspective, such exclusion is ethically indefensible. Social workers are mandated to promote the dignity and worth of all individuals, regardless of legal status, and must challenge policies that degrade or dehumanise vulnerable populations.

The denial of healthcare services to undocumented migrants has implications that extend beyond individual well-being to the broader public. Infectious diseases such as tuberculosis, HIV/AIDS, and COVID-19 do not discriminate based on citizenship. Excluding undocumented individuals from access to testing, treatment, and vaccination—as occurred during parts of the COVID-19 pandemic—exacerbates public health risks for the entire population. This undermines not only health equity but also social solidarity and effective disease control, which require inclusive and preventative healthcare systems.

Children, regardless of their legal status, are entitled to special protection under the South African Constitution and international instruments such as the UN Convention on the Rights of the Child. Yet undocumented children often face barriers to accessing basic education and healthcare. A 2022 UNICEF report estimated that over 100,000 undocumented children were out of school in South Africa, increasing their vulnerability to poverty, exploitation, and intergenerational marginalisation. The social work profession regards this as a gross violation of children's rights and a direct threat to long-term social development and cohesion.

## Normalisation of Xenophobia

Policies that exclude undocumented migrants—while not always xenophobic in intent—may inadvertently reinforce xenophobic attitudes by framing immigrants as "undeserving" or a drain on public resources. The 2015 xenophobic attacks in Durban and more recent episodes in 2019 illustrate how public perceptions are shaped by policy rhetoric and government inaction. Social workers have observed that such exclusions make it more difficult to foster inclusive communities, as they entrench an "us versus them" mentality that impedes integration and fuels social unrest (Mlambo et al., 2023).

## a) Legal Sovereignty

Legal sovereignty is a foundational principle of international law that affirms the right of nation-states to control their borders, regulate migration, and determine the allocation of state resources. In South Africa, this principle is enshrined in the Immigration Act No. 13 of 2002, which empowers the state to prioritise citizens and legally residing individuals in the distribution of public services such as healthcare, education, and social assistance. The denial of services to undocumented migrants is often justified as a legitimate exercise of sovereign authority aimed at deterring irregular migration and safeguarding national resources. However, this assertion of sovereignty raises critical legal and ethical questions, particularly when it intersects with constitutional rights and international obligations.

Ziegler (2020) highlights the legal and human rights tensions that have emerged from recent amendments to South Africa's refugee legislation, which have significantly curtailed asylum seekers' access to protection mechanisms. These legislative shifts arguably conflict with South Africa's constitutional commitment to human dignity and access to basic services, as well as with its obligations under international refugee law. While South African courts have played an important role in interpreting constitutional provisions to ensure access to certain services for asylum seekers, Ziegler (2020) further notes that judicial decisions seldom invoke international refugee law as a central interpretive framework. This judicial restraint illustrates the limitations of sovereignty when weighed against the broader constitutional ethos of equality and justice.

In a broader normative analysis, Camacho Beltrán (2020) critiques the ethical basis of privileging citizens' interests in immigration policymaking, arguing that state sovereignty must be constrained by principles of justice and human rights. This perspective resonates with South

Africa's constitutional framework, which extends certain fundamental rights, such as the right to healthcare and education, regardless of citizenship or documentation status. Moreover, Ayuningtyas (2020) underscores the role of good governance in immigration and public service administration, advocating for an approach that balances state sovereignty with responsiveness to diverse community needs, including those of non-citizens.

These scholarly contributions highlight the complexity of immigration governance within the framework of legal sovereignty. While states are entitled to regulate immigration and uphold the rule of law, such authority must be exercised in ways that do not erode fundamental rights or violate international commitments. In South Africa's context, the interplay between national legislation, constitutional mandates, and international norms reveals that sovereignty is not an unqualified license to exclude, but a responsibility that must be tempered by legal accountability and ethical governance.

### b) Resource Constraints

South Africa's capacity to provide equitable public services is significantly undermined by enduring socio-economic challenges. With an official unemployment rate of 32.9%, over 55% of the population living in poverty, and persistent inequality (Francis & Webster, 2019; Conradie, 2018), the state's ability to extend welfare and essential services is under immense pressure. Although the country boasts a progressive constitutional framework that guarantees a broad range of socioeconomic rights, the practical realisation of these rights is often hampered by structural constraints, weak institutions, and limited fiscal capacity (Cloete et al., 2018; Faluyi & Olutola, 2024). These pressures have given rise to policy debates around the prioritisation of citizens over non-citizens—particularly undocumented migrants—in accessing state-funded services.

Recent data from the Department of Health (2024) illustrates the gravity of these concerns. In Gauteng alone, public hospitals reportedly spent 15% of their total budget on treating non-citizen patients. This figure has fuelled political discourse advocating for stricter immigration controls and the restriction of service access to undocumented migrants. From a resource allocation perspective, such prioritisation is framed not as xenophobic exclusion but as a pragmatic necessity aimed at safeguarding the quality and sustainability of public services for the citizenry. However, this framing risks normalising exclusionary practices that disproportionately affect vulnerable groups, including asylum seekers, undocumented children, and stateless persons.

The literature foregrounds how poverty and institutional fragility complicate this debate. Conradie (2018) and Cloete et al. (2018) argue that while South Africa has made notable strides in expanding social safety nets, entrenched structural barriers—such as unemployment, corruption, and weak governance—undermine these efforts. Faluyi and Olutola (2024) further emphasise the role of institutional weakness and political inertia in sustaining poverty and service delivery failures. These challenges are compounded by an underperforming economy and a growing public demand for accountability, often directed toward perceived overburdening of public systems by non-citizens.

Nonetheless, constitutional jurisprudence and human rights principles place ethical constraints on how resource constraints can be operationalised. The South African Constitution affirms the right of "everyone" to access healthcare and education, suggesting that such rights are not exclusively reserved for citizens. Any attempt to limit access based on documentation status must therefore be weighed against the constitutional obligation to treat all individuals with

dignity and equality. While resource scarcity is a legitimate concern, it does not provide carte blanche to violate fundamental rights or undermine international commitments, especially regarding vulnerable migrant populations.

Although resource constraints present a formidable challenge to the South African state, they must be managed through inclusive, accountable, and rights-based governance. Efforts to ration public services must be accompanied by institutional reforms, anti-corruption measures, and economic revitalisation strategies that address the root causes of poverty and social exclusion. Only then can the state strike a just balance between fiscal sustainability and its legal and ethical commitments.

### c) Social Cohesion

Social cohesion is a critical component of stable societies, referring to the degree of social integration, mutual trust, and shared identity among individuals and groups. In South Africa, however, social cohesion remains fragile, particularly in impoverished urban and peri-urban areas where high levels of unemployment and poverty intersect with rising immigration. Tensions between local populations and foreign nationals have periodically erupted into xenophobic violence, most notably during the 2008 and 2019 outbreaks, where foreign-owned businesses were looted and targeted (Mlambo et al., 2023). These events reflect a broader public perception that immigrants compete for limited jobs, housing, and state services, thereby fuelling resentment and eroding community solidarity (Murenje, 2020; Chisadza, 2024).

Within this context, denying services to undocumented immigrants is often justified as a strategy to preserve social cohesion by reassuring citizens that their needs are prioritised. Policymakers and public discourse frame such measures as mechanisms to prevent tensions and reassert the state's responsiveness to its own people. However, while politically expedient, this approach risks reinforcing exclusionary nationalism and institutionalising xenophobia. It positions immigrants, particularly undocumented ones, as scapegoats for structural failures such as unemployment, crime, and poor service delivery—issues that have deeper roots in systemic inequality, governance weaknesses, and economic stagnation (Masinga & Lelope, 2020).

The role of social workers and social policy scholars in this environment is particularly complex. On one hand, practitioners must acknowledge the real frustrations of citizens living in under-resourced communities and the need for responsive governance in such settings. On the other hand, they are ethically obligated to challenge policies and narratives that marginalise vulnerable groups and undermine human rights. As Chisadza (2024) notes, despite negative sentiments, some citizens remain welcoming to immigrants, indicating that anti-immigrant hostility is not monolithic but shaped by broader dissatisfaction with state performance. This presents an opportunity for social workers and community leaders to disrupt dominant narratives that conflate migration with social decay.

Moreover, empirical evidence suggests that inclusive approaches to immigration governance can enhance, rather than threaten, social cohesion. Mlambo et al. (2023) advocate for multi-stakeholder collaboration, community dialogue, and targeted economic interventions to reduce tensions between locals and immigrants. Similarly, Masinga and Lelope (2020) call for a coordinated policy response that integrates immigrant entrepreneurs, addresses discrimination, and fosters mutual understanding through civic education and media engagement. These scholars emphasize the importance of depoliticising immigration and developing integration strategies that respect both the needs of host communities and the rights of migrants.

In sum, while service denial may offer short-term political gains in strained communities, it undermines the long-term goal of building a cohesive, inclusive society. Social cohesion cannot be sustained through exclusion; rather, it requires responsive social policy, equitable economic opportunities, and deliberate efforts to foster mutual respect and solidarity across differences. For South Africa, this entails balancing the legitimate concerns of resource-deprived citizens with the imperative to uphold human rights and resist the institutionalisation of xenophobia.

## Conclusion

This study critically examined the denial of public services to undocumented migrants in South Africa through a narrative literature review, engaging multiple theoretical frameworks and disciplinary lenses. What emerges is a complex and often contradictory policy landscape, where state sovereignty, legal obligations, and ethical imperatives intersect and, at times, collide.

At the heart of the debate is the tension between legal sovereignty and constitutional rights. While the Immigration Act No. 13 of 2002 empowers the state to control access to services based on legal status, this approach often stands in conflict with Sections 27 and 28 of the Constitution, which guarantee access to healthcare and basic education for "everyone." The inconsistency between these legal instruments creates fragmented interpretations and practices across provinces, especially in the health and education sectors. In practice, undocumented migrants are frequently excluded, creating systemic vulnerabilities.

Although such exclusionary policies are often rationalised by resource constraints, the discussion reveals that scarcity alone does not justify rights violations. South Africa's high unemployment rate, overburdened healthcare system, and economic fragility are real; however, using these factors to deny services risks scapegoating undocumented migrants for deeper structural problems such as corruption, poor governance, and economic mismanagement. Furthermore, these policies do not offer sustainable solutions and may instead fuel public resentment and social tension, undermining national cohesion.

From a social work perspective, the ethical dilemmas are profound. Denying services to vulnerable populations contradicts core professional values—human dignity, social justice, and non-discrimination. Social workers find themselves at the intersection of law and ethics, compelled to choose between following exclusionary policies and advocating for human rights. The discussion shows that failure to address this tension can entrench systemic inequality and weaken the profession's transformative role.

Moreover, the review finds that policies denying services, though not always xenophobic in intent, often normalize xenophobic attitudes. Framing migrants as undeserving competitors for limited resources contributes to a divisive "us versus them" narrative. This public sentiment, combined with state rhetoric and institutional practice, perpetuates social exclusion. Incidents of xenophobic violence, such as those in 2008 and 2015, underscore the dangers of legitimising exclusion under the guise of pragmatism.

Theoretical insights from Anti-Oppressive Practice, Human Rights Perspective, Ecological Systems Theory, and the Strengths-Based Perspective provide a multidimensional understanding of the issue. These frameworks reinforce the importance of moving beyond legality and resource allocation to address the structural and relational barriers faced by undocumented migrants. They also offer social workers a toolkit to critically engage with and challenge policies that compromise ethical standards.

In conclusion, while denying services to undocumented migrants may be legally defensible and administratively convenient, it is ethically precarious and socially harmful. The paper urges for a shift toward inclusive, rights-based migration governance that honours South Africa's constitutional values, supports vulnerable populations, and fosters long-term social cohesion. Social work, with its dual role in service delivery and policy advocacy, must remain at the forefront of this transformative agenda.

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