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Distributive injustice in municipal services: Nativist barriers to free basic service access for non-South African citizens

Impi Rungano Kuhlengisa *

Nelson Mandela University, 2nd Avenue, Summerstrand, Port Elizabeth, South Africa

Abstract

The study on which this article is based assesses how nativism in municipal indigent policies and practices creates distributive injustices by excluding non-citizen residents from accessing free essential services in South Africa. The study employed an interpretivist paradigm, a qualitative research approach, and a case study design, using the Amathole District Municipality (ADM) as a case. The study revealed that distributive injustices characterise the implementation of indigent policy in ADM, as non-South African citizens are excluded from accessing free essential services. These distributive injustices emanate from the systemic exclusion of non-South African citizens, ranging from citizenship requiring a South African ID, xenophobic social attitudes, blanket exclusion of non-South Africans, and property ownership requirements as a qualification criterion. The study recommends that the National Framework for Municipal Policy be amended to specify that indigent support should be provided to everyone regardless of nationality. The study contributes to the body of knowledge by highlighting the impact of nativist indigent policies on social inclusion, informs policy practice by advocating for inclusive municipal indigent policies, and benefits society through the promotion of a more equitable and just environment for South African and non-South African citizens. The main conclusion is that nativism in the ADM indigent policy has created distributive injustices by excluding non-citizens from accessing free basic services.

Keywords: Indigent; Nativism; Distributive Justice; Municipality; Social Cohesion

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* Corresponding author. *E-mail address:* impikuhlengisa@gmail.com

1. Introduction

Mass immigration, as experienced in South Africa over the past two decades, has reshaped the political discourse, prompting concerns regarding the sustainability of welfare policies. Most voters who support redistribution hold negative views of non-South African citizens and are turning against welfare policies, as they perceive them to benefit minorities disproportionately. These voters have expressed "welfare chauvinism", which entails restricting welfare services to only the people of that country. Within the South African context, welfare chauvinism has led to nativism in social policies, creating a situation where immigrants are viewed with suspicion and excluded from accessing social services. Most policies, such as the provision of social grants and social housing, are restricted to natives. However, this has negative implications for distributive justice, as some deserving individuals are excluded because they are not South African.

As a relatively new democratic nation in Africa, which attained independence in 1994, South Africa has been portrayed as a "haven" and a beacon of hope on the continent. South Africa is characterised by a robust economy and a more stable political landscape than several African countries. However, it continues to struggle with the triple challenges of poverty, inequality, and unemployment, exacerbated by inward migration, as the number of immigrants in the country has reached 2.4 million (Stats SA, 2022).

Most new immigrants in South Africa are Africans pursuing economic opportunities or refugees seeking asylum. Since the dawn of democracy, the number of foreigners migrating to South Africa has increased, including those on long-term visas, refugees, and undocumented immigrants. Some foreigners have since been naturalised. In addressing undocumented migration, the South African government introduced several permits aimed at legalising their status, including the Lesotho Special Permit (LSP) and Zimbabwean Exemption Permit (ZEP). These permits allowed Lesotho and Zimbabwean citizens to reside and work in South Africa. However, it is worth noting that these permits were issued primarily to low-skilled or unskilled individuals, many of whom remain unemployed and live below the poverty line (Simbo and Sikhitha, 2025).

These individuals are protected under the South African Constitution (1996), which protects the rights of all people in South Africa, including non-nationals. Notably, permanent residents were granted the right to access social assistance following the Constitutional Court's ruling in the Khosa case. Conversely, this extension excludes temporary residents, asylum seekers, refugees, and undocumented immigrants, as eligibility is limited to permanent residents.

Immigrants in South Africa have long been subjected to unfair treatment by some citizens, as anti-migrant and anti-refugee sentiments have gained traction over the past decades. This has been exacerbated by the emergence of populist politics, which has given rise to parties such as the Patriotic Alliance and ActionSA. The leader of the Patriotic Alliance, for instance, was caught on camera promising to "switch off" a non-South African citizen.

The challenges of unemployment, inequality, and poverty affect all citizens adversely. In addressing the triple challenges, the South African government introduced the National Framework for Municipal Indigent Policies (NFMIP) in 2003. This framework serves as a guideline for municipalities to develop their indigent policies aimed at providing free essential services to indigent households (Kuhlengisa et al., 2024a). Under

these indigent policies, municipalities should provide free basic services, such as water, electricity, sanitation, and refuse collection.

The national framework is silent on the issue of foreigners, whether naturalised, documented or undocumented, and only stipulates that municipalities are responsible for developing eligibility criteria appropriate to their contexts. The NFMIP guides municipalities in developing policies to alleviate poverty (Fuo, 2020). Ngarava (2023) posits that the NFMIP determines how municipalities provide subsidies to indigents within their jurisdictions, while also recognising unique characteristics of each municipality.

According to the Department of Provincial and Local Government (DPLG) (2003), an indigent is defined as an individual who cannot afford necessities such as water, electricity, sanitation, and refuse collection. Kuhlengisa et al. (2024a) posit that the NFMIP provides guidelines for determining who qualifies as indigent, service standards, selection criteria, verification processes, and funding models for indigents. These benchmarks aim to ensure that no indigent person is left without access to essential services. The NFMIP of 2003 aims to create a social safety net by ensuring access to essential services for those who qualify under its procedures and guidelines.

In this regard, Kuhlengisa et al. (2024a) argue that all indigent individuals share the need to access affordable essential services that will facilitate their productive and healthy engagement within society. The NFMIP provides a benchmark for achieving this within the local government sphere. However, scholars have criticised the framework's silence on addressing non-citizens as a significant concern (Fou, 2020; Kuhlengisa et al., 2024a). Fou (2020) argues that the absence of a mechanism to address non-citizens has resulted in nativism, whereby the policy prioritises native inhabitants over immigrants.

The literature indicates that many deserving non-South African citizens in most municipalities have been excluded from indigent support, thereby reinforcing existing social inequalities (Fuo, 2020; Kuhlengisa et al, 2024b; Erasmus and Bosane, 2020). ADM, a Category C municipality with six local municipalities under its jurisdiction, namely Mbhashe, Mnquma, Great Kei, Amahlathi, Ngqushwa, and Raymond Mhlaba, is no exception. Like many others, this municipality considers citizenship as a criterion for indigent support. This blanket exclusion violates constitutional and international human rights obligations, particularly the duty of non-discrimination, and fails to recognise the socio-economic needs of long-term non-citizen residents. The article assessed the nativist barriers to providing free basic services to non-South African citizens.

The study addressed the following question.

> *How do nativist municipal indigent policies and practices create distributive injustice by excluding non-citizen residents from accessing free basic services in South Africa?*

Various studies have been conducted on indigent policies in South Africa. Alers (2022) proposed a policy design evaluation framework for indigent policy, Mukonavanhu et al. (2022) assessed indigent water policy and its impact on the lives of individuals experiencing poverty in local governments, Ngarava (2023) evaluated the effectiveness of the indigent support policy on food insecurity, and Pillay and Mutereko (2022) examined the effects of indigent policies on the urban population. These studies have focused primarily on service delivery challenges and indigents' perceptions of policy. Limited research has critically analysed the distributive injustices and human rights implications of the blanket exclusion of non-South African citizens from municipal indigent policies.

This article seeks to fill this gap by combining perspectives from constitutional, international human rights law, and socio-economic rights jurisprudence to argue for policy amendments that enable the inclusion of non-citizens in municipal free service provision. This article is structured as follows: introduction, theoretical framework, where John Rawls' distributive justice is applied, literature review, methods and design, findings, implications, and conclusion.

2. Theoretical framework

This article is underpinned by John Rawls' distributive justice theory, developed in 1971. In this theory, Rawls accepts that inequality may exist. However, he maintains that these inequalities only exist if they serve to enhance the lives of the least disadvantaged. This theory refutes utilitarian approaches that may sacrifice the rights or well-being of minorities for the greater good, and instead argues that justice requires the protection of fundamental rights and opportunities of all, particularly the most vulnerable (Wellbank, 1982).

Rawls' theory is premised on two primary principles: the principle of equal liberty and the principle of equality. Arneson (1990) highlights that the principle of equal liberty entails that everyone should enjoy the most extensive set of fundamental liberties compatible with similar liberties for others, such as freedom of assembly and adherence to the rule of law. According to Rawls (1971), the principle of equality comprises two components: fair equality of opportunities and the difference principle. Crocker (1977) posits that the difference principle allows socio-economic inequalities only if they benefit the least advantaged members of society.

Through the lens of this theory, fairness requires that municipalities be organised in ways that promote equal access to societal goods and benefit the least advantaged. Within the prescripts of indigent policies in South Africa, the theory demands a critical evaluation of the exclusion of foreigners from free essential services. Denying non-South African citizens access to such services based on citizenship perpetuates disadvantage and economic vulnerability among foreign-born residents. Excluding non-South African citizens who share urgent needs with citizens reflects a failure of social justice, as it limits life prospects and diminishes their sense of belonging in political society. This is in direct contrast to Rawls' commitment to the moral legitimacy and inclusive reach of distributive policies in diverse, democratic societies.

3. Nativism in social policies

The concept of nativism has gained traction over the past decade, with scholars referring to it as anti-migrant and anti-refugee sentiment (Mudde, 2020; Denvir, 2020; Newth, 2023). Bosniak (1997) opines that nativism protects the interests of the native-born by supporting anti-immigration agendas. At its core, nativism is about prioritising the interests of natives, particularly in the design of social policies. Nativism leads to the exclusion of immigrants, based on the belief that they pose a fundamental threat to the nation's values and resources (Newth, 2023).

We argue, however, that nativism is primarily driven by perceived rather than actual threats, augmented by biases and misinformation. As, to some extent, nativism is prioritised in social policies to empower natives, it can be susceptible to manipulation by politicians who use it to advance populist agendas. In this scenario,

Abadi et al. (2025) argue that nativism fosters a divisive "us and them" mentality, where natives are portrayed as superior and outsiders as suspicious. In such a context, political leaders exploit uncertainty and fear by framing non-citizens as an existential threat.

Proponents of nativism argue that immigrants overburden the receiving country's social welfare system and public services (De Genova, 2016). Other scholars contend that nativism protects national culture, language, and identity from dilution or replacement by immigrants. This argument may hold from a Eurocentric viewpoint. However, in most African countries, especially in sub-Saharan Africa, this notion is less convincing, as individuals often share similar cultures and languages, with place of birth being the primary differentiating factor (Kuhlengisa et al., 2024b).

Zhao (2019) posits that nativist policies should be prioritised, as they aim to preserve social cohesion, national identity, and the welfare of native citizens. In practice, this is achieved through social policies that restrict access to services, welfare, and rights based on citizenship status, thereby excluding non-citizens such as migrants (Denvir, 2020). Although this is one way of ensuring that the interests of native citizens are safeguarded in social policies, it has negative consequences within communities. Ashura (2021) argues that denying migrants access to basic services creates a marginalised class of residents, undermining the principle that all individuals are entitled to fundamental rights and protections.

Xu et al. (2023) describe the exclusion of non-citizens from basic services as catastrophic, as it leaves them vulnerable to poverty, poor health, and exploitation, perpetuating the cycles of inequality. Excluding non-citizens fractures communities, breeds resentment, and undermines the realisation of distributive justice, which requires equal access to opportunities and protections for all (Ashura, 2021; Xu et al., 2023).

Another nativist approach in social policy emanates from blanket institutional exclusion, referring to institutional policies that bar certain groups from accessing public services. The shortcomings of this approach include institutionalised discrimination, making it challenging for affected groups to access basic services and contributing significantly to socio-economic divides (Bartels, 2020). According to De Genova (2016), denying non-citizens access to safety nets through social policies traps the entire community in poverty and limits their upward mobility. In line with the above, it is worth noting that blanket institutional exclusion contravenes the rights-based approach to distributive justice, which emphasises universality and non-discrimination. Policies should not discriminate against a particular group in attempting to achieve distributive justice, and institutionalised exclusion should be dismantled.

Xenophobic political rhetoric as a nativist approach entails the use of anti-immigration rhetoric by politicians to justify exclusionary policies. Avdagic and Savage (2024) note that xenophobic sentiments and political rhetoric framing immigrants as the cause of social ills have resulted in welfare chauvinism. Welfare chauvinism describes the belief that immigrants should be prevented from receiving welfare benefits (Andersen and Bjørklund, 1990). Studies, Hainmueller and Hopkins (2014); Hjorth (2016), Marx and Naumann (2018), and Avdagic and Savage (2024) reveal that welfare chauvinist attitudes are more prevalent among low-income groups facing economic hardship, where politicians exploit the situation by framing immigrants as the cause of these problems. In line with the above, we argue that welfare chauvinism affects public opinion and influences the formulation and implementation of social policies. It is worth noting that public opinion is affected by how politicians and the media frame the issue of migrants; however, it is almost impossible to separate the effects of frame content from the effects of valence alone. Unfortunately, voters are primarily exposed to valence frames that do not address different aspects of a social issue but instead emphasise the

positive or negative consequences of a particular social policy. For instance, information about the consequences of immigration policy in South Africa illustrates this point: negative frames about foreigners in South Africa tend to be more powerful than positive ones in shaping public opinion, and this has implications for the formulation and implementation of social policy.

4. Methods and design

This section provides an in-depth description of how the researcher addressed the research question. The research employed a qualitative research approach, and the rationale for adopting this approach was that it allowed the researcher and participants to explore and provide deeper insights into the challenges non-South Africans encounter in accessing free basic services through the indigent support programme. This approach enabled the researcher to capture the depth of participants' experiences and perspectives regarding the subject under review.

The study employed an interpretivist research paradigm, defined as an empathetic understanding of how individuals perceive and interpret their day-to-day experiences (Wilshire, 2018). During the research process, the researcher was deeply involved in shaping and being shaped by participants' interpretations of the phenomenon.

Thomas (2021) notes that a research design encompasses the plan for data gathering, measurement, and analysis. In this study, the researcher employed a case study design, focusing on the ADM as the case. The ADM, located in the Eastern Cape Province of South Africa, has six local municipalities under its jurisdiction: Mbhashe, Mnquma, Great Kei, Amahlathi, Ngqushwa, and Raymond Mhlaba. ADM is characterised primarily by rural communities and high levels of poverty.

The target population for the study consisted of all non-South Africans residing within the municipal area, and the sample comprised twenty-one participants. Subedi (2021) defines sampling as the process of subdividing a population into manageable groups. The rationale for selecting twenty-one participants was based on saturation rather than the generalisability of the findings. Creswell and Creswell (2018) argue that a sample of five to fifty participants is acceptable in a qualitative study, as this range is sufficient to achieve saturation. The study employed a non-probability sampling method, specifically the snowball sampling technique, which relies on referrals. This approach was necessary because it was challenging to locate participants, particularly as some were undocumented migrants.

Seed participants were identified through social networks catering to non-South African nationals from diverse backgrounds. The researcher asked each participant to refer other eligible individuals to minimise recruitment bias caused by social network homogeneity. These seed participants were deliberately selected to reflect diversity in country of origin, gender, and duration of residency in Amathole Municipality. The researcher monitored the referral chains to ensure diversity and prevent over-representation. Recruitment continued until thematic saturation was achieved.

The inclusion criteria required participants to have been born outside South Africa, be older than thirty-five, and have lived in the ADM for more than ten years. Data was collected through in-depth interviews, which allowed participants to express themselves freely.

Data analysis followed Braun and Clarke's (2006) six steps of thematic analysis: familiarisation with the data sets, generating initial codes, searching for themes, reviewing themes, defining and naming themes, and producing the report. Ethical considerations included requesting permission from the municipality, debriefing participants, and obtaining signed informed consent forms from respondents. Participants' identities were protected when presenting the findings by withholding names, and potential harm was avoided by not asking sensitive questions.

5. Findings

This article assessed how nativism in municipal indigent policies and practices creates distributive injustice by excluding non-citizen residents from accessing free essential services in South Africa. The findings revealed that distributive injustices arise from the use of citizenship and property ownership as eligibility criteria, which exclude non-citizens from benefiting from indigent support. Additionally, nativist political rhetoric and discourse reinforce xenophobic and exclusionary practices by framing non-citizens as illegal, criminal, and as competitors for scarce welfare resources, legitimising the denial of access to free essential services. Distributive injustices are also perpetuated through language and participatory barriers, as shown in Table 1.

Table 1. Themes and Subthemes

	Emerging themes
Theme 1	Citizenship-Based Exclusion
Theme 2	Blanket Institutional Exclusions
Theme 3	Xenophobic Political Rhetoric
Theme 4	Property Ownership Requirements

Researchers' construction (2025)

5.1. Citizenship-based exclusion

The study identified citizenship-based exclusion as a common theme contributing to distributive injustices in municipal services. Participants were asked to comment on the eligibility criteria that prevent them from accessing indigent support from the ADM. All participants indicated that using citizenship as an eligibility criterion has resulted in their exclusion from much-needed support. Relevant quotes extracted from interviews with participants are presented below.

> *"I tried to apply for free basic services through the municipality, but they rejected my application because I do not have a valid South African ID. I was told in my face that foreigners are not eligible because this is only for South African citizens."*

"I was told that indigent support is only for South African citizens. Even after showing them my refugee status documents, they said it does not count and needs to be verified by Home Affairs first. I feel completely excluded from support."

"Even though I have lived here for 15 years, I cannot access indigent benefits because I am not a citizen, and I do have a Zimbabwean exemption permit. The officials said the policy is clear: no foreigners allowed, regardless of their situation."

Based on the above, without a South African ID card, individuals are not eligible for indigent support. Within the ADM, citizenship is therefore a key eligibility criterion, resulting in the exclusion of non-South African citizens from accessing essential services. Data analysis revealed that non-South Africans are excluded from indigent support precisely because South African citizenship is required. This is a cause for concern, as documented non-citizens with valid long-term permits and undocumented migrants are excluded from accessing indigent support. Such exclusion contradicts the aim of the NFMIP, which seeks to ensure that no one is left behind in accessing essential services. In addition, using citizenship as a qualification criterion perpetuates existing inequalities within the municipality.

Ashura (2021) argues that denying migrants access to basic services creates a class of residents within the community, undermining the principle that all individuals are entitled to basic rights and protection. Xu et al. (2023) describe the exclusion of non-citizens from basic services as catastrophic, as it leaves them vulnerable to poverty, poor health, and exploitation, perpetuating the cycles of inequality. Such exclusion also fractures communities, breeds resentment, and undermines the realisation of distributive justice, which requires equal access to opportunities and protection for all (Ashura, 2021; Xu et al., 2023).

We argue that poverty knows no nationality, and excluding deserving individuals from accessing free basic services risks catastrophic consequences in the long run. Marginalisation may drive some to engage in crime out of desperation.

5.2. Blanket institutional exclusions

Blanket institutional exclusions refer to exclusionary practices in which entire groups are denied access to free basic services based on predetermined criteria, regardless of their circumstances. Participants were asked to comment on their experiences of being excluded from indigent support irrespective of their legal status. Fourteen of the twenty-one participants reported that the blanket institutional exclusion imposed by the municipality had left them without access to indigent support, despite being legally resident in South Africa. Relevant comments extracted from the interviews are presented below.

"Despite my legal refugee status and dire financial situation, the municipality refused to provide free basic services. They apply a strict rule that excludes all foreigners, ignoring individual circumstances or humanitarian considerations."

"The officials told me bluntly that foreigners are not eligible for municipal support. It does not matter if you have a permit, are sick, or are homeless; the policy is a blanket ban."

> *"I do have a ZEP, and when I tried to apply for support, I was told that we do not know when these permits will be phased out, so we cannot take the risk."*

The statements reveal that the indigent support qualification criteria impose a blanket ban on non-South African citizens without considering their legal status, resulting in the systemic denial of free basic services. This blanket approach has prevented some deserving individuals from accessing indigent support solely because they are not South African natives. The lack of differentiation between naturalised residents with valid permits and undocumented migrants is a cause for concern.

Blanket institutional exclusion, as reflected in institutional policies, has several shortcomings. It institutionalises discrimination, making it challenging for affected groups to access basic services and contributing significantly to socio-economic divides (Bartels, 2020). De Genova (2016) argues that denying non-citizens legal access to safety nets through social policies traps entire communities in poverty and limits their upward mobility.

In line with the above, it is worth noting that blanket institutional exclusion contravenes the rights-based approach to distributive justice, which emphasises universality and non-discrimination. Policies should not discriminate against a particular group in achieving distributive justice, and institutionalised exclusion should be dismantled.

5.3. Xenophobic social attitudes

This article also notes that populist sentiments expressed by politicians, resulting in xenophobic rhetoric, have contributed to distributive injustices in municipal services. All participants believed that society is polarised into "us" and "them", resulting in resentment towards non-citizens, who are not considered members of society and, therefore, considered undeserving of indigent support. The participants expressed the following:

> *"The community believes foreigners are here to steal their opportunities and benefit from indigent support at their expense. This belief is fuelled by speeches and media that call us 'illegal' and 'burdens,' which leads to us being excluded from basic services."*

> *"Xenophobic attacks happen after politicians and some public figures blame foreigners for social problems. This rhetoric spreads fear and hatred, resulting in the municipality justifying excluding us from indigent support."*

> *"When officials say things like 'South Africa belongs to South Africans,' it sends a message that foreigners do not deserve help. This makes it impossible for us to access indigent programs, no matter how needy we are. We are living in different times, and this has been made worse by the government of national unity, where politicians are using the issue of foreigners to gain support."*

The statements above reflect that xenophobic rhetoric from politicians and officials contributes significantly to distributive injustices in municipal services, as it normalises exclusionary practices, legitimises the denial of services to non-citizens, and fosters social hostility. Political rhetoric framing foreigners in South Africa as undesirable and as competitors for scarce resources has adversely affected the implementation of indigent policies in the ADM. This finding aligns with the literature. Avdagic and Savage (2024) argue that

xenophobic sentiments and political rhetoric framing immigrants as the source of a country's social ills have resulted in welfare chauvinism. Consequently, non-South Africans are prevented from receiving welfare benefits through indigent support in the ADM (Andersen and Bjørklund, 1990). This study further revealed that welfare chauvinist attitudes are more prevalent in the ADM, which is predominantly rural, compared to neighbouring municipalities such as Buffalo City Metropolitan Municipality, where urban dynamics allow for the inclusion of foreigners as beneficiaries of indigent policies.

This finding reinforces the arguments of Hainmueller and Hopkins (2014), Hjorth (2016), Marx and Naumann (2018), and Avdagic and Savage (2024), who indicate that welfare chauvinist attitudes are more prevalent among low-income groups facing economic hardship, where politicians exploit the situation by framing immigrants as the cause of these problems.

5.4. Property ownership requirements

Data from the participants revealed that distributive injustices in the ADM are reinforced by the property ownership requirement for accessing indigent support. Eighteen participants criticised this requirement, noting that it systematically excludes them from receiving such support. The participants highlighted the following:

> *"I do not own any property here in South Africa; I rent a small back room, and to qualify for indigent support, I must be a property owner. This automatically excludes me, and I do not even attempt to apply because I know I do not qualify."*

> *"I live in a backyard shack on someone else's property and do not qualify for indigent support; hence, I have not attempted to apply. This requirement ignores the reality of many foreigners who live in informal or rented housing."*

> *"Some of us are informal traders, which renders the property ownership criteria unfair because most of us are staying in informal settlements or rented rooms because of our inability to afford to buy property. This policy fails to consider this reality and denies us this support on this basis."*

The statements revealed that the property ownership requirement stipulated in the ADM indigent policy excludes non-citizens from receiving free essential services, as they are unable to purchase or own property due to their economic status, and, as a result, do not qualify for indigent support. In line with this, indigent policies within the ADM are designed to prioritise citizens, with property ownership serving as a proxy for belonging and legitimacy. Although some foreigners who are legal citizens may be able to purchase property in South Africa, the intersection of property ownership and citizenship requirements as eligibility criteria creates a double barrier for most non-South Africans.

This systematic exclusion contravenes the South African Constitution and international human rights obligations, which require equal treatment and non-discrimination in the enjoyment of socio-economic rights, regardless of nationality or immigration status. Consequently, many non-South Africans in the ADM are forced to live in informal settlements or overcrowded conditions where these services are unavailable, which perpetuates inequalities and undermines social cohesion. The implications of the policy are summarised in Table 2.

Table 2. Implications of the policy

	Impact on Non-South Africans	**Resulting Distributive Injustice**
Citizenship requiring SA ID	Most non-South Africans cannot qualify, even with legal status.	Systematic exclusion from indigent support.
Xenophobic social attitudes	Justifies exclusions and undermines inclusion.	Ignores vulnerability and entrenches poverty.
Blanket exclusion	No distinction is made for long-term residents, refugees, or undocumented individuals.	Contradicts constitutional values.
Property ownership requirements	Most non-South Africans are unable to qualify because they cannot afford property.	Systematic exclusion from indigent support.

Source: Researchers' Construction (2025)

The study's findings, as discussed above, reveal redistributive injustices in indigent services, as non-South African nationals are excluded from accessing essential services. These findings do not fully align with Rawls' theory of justice. According to Rawls, the principle of justice as fairness entails a society where free and equal individuals cooperate under fair terms. This ideal is not being realised within the ADM's indigent policy, as non-citizens are denied equal basic rights and opportunities.

Rawls' concept of the veil of ignorance aims to ensure fairness and impartiality, yet the findings indicate that such fairness is absent in the context of indigent policy in ADM. Regarding the difference principle, socio-economic inequalities remain unjustified because the indigent policy fails to benefit non-South Africans, who constitute some of the most disadvantaged members of society.

Another divergence between the findings and Rawls' theory lies in the reliance on morally arbitrary factors, such as birthplace, to determine non-South Africans' chances of accessing free essential services.

6. Recommendations

The following recommendations were made to address the identified challenges.

The ADM indigent policy should be amended to remove citizenship and property ownership as eligibility criteria for indigent support. Vulnerable groups, including asylum seekers and long-term residents, must be granted access to free basic services regardless of citizenship status. In alignment with the South African Constitution, which upholds non-discrimination and socio-economic rights for all, the municipality should adopt a needs-based eligibility framework based on socio-economic vulnerability instead of legal status or property ownership. Such an approach will ensure that deserving indigent households are not excluded from essential services, thereby promoting distributive justice and safeguarding the constitutional rights to dignity and equality.

The study also recommends training municipal officials, revising administrative procedures, and monitoring compliance with constitutional and international human rights standards. Such measures would help prevent discrimination and promote equality. Additionally, non-South African communities should be

engaged in the design and implementation of indigent policies to ensure their needs are represented. Meaningful participation would empower marginalised groups and enhance the effectiveness and legitimacy of indigent policy.

7. Conclusion

The article revealed that non-South African citizens are excluded from receiving free basic services in the municipality, contravening international and South African human rights laws that mandate non-discrimination. It concludes that nativism in the ADM indigent policy has created distributive injustices by excluding non-citizens from accessing free basic services. These injustices emanate from citizenship-based exclusion, blanket institutional exclusions, xenophobic political rhetoric, and property ownership requirements.

Furthermore, nativist rhetoric from political leaders in the selected municipality has created a hostile environment that discourages social integration and inclusion. This situation has left deserving non-South African citizens without access to free basic services, undermining the primary aim of the indigent policy framework, which is to ensure that everyone has access to fundamental services without discrimination.

South Africa has a law and policy framework that protects the fundamental human rights of non-nationals, irrespective of their legal status. A central feature of this framework is the guarantee of non-discrimination in the enjoyment of various socio-economic rights enshrined in the Constitution. Nativist indigent policies exacerbate poverty and inequality by excluding non-South African citizens from economic opportunities and social services.

In addressing the identified challenges, the article recommends amending the ADM indigent policy to be more inclusive by removing citizenship and property ownership as eligibility criteria for indigent support. The article also recommends training municipal officials, revising administrative procedures, and monitoring compliance with constitutional and international human rights standards, as these measures would help ensure non-discrimination and equality.

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