



CoRMSA Newsletter

Edition 5 — August 2011

Welcome to the fifth edition of CoRMSA's Newsletter. This month's newsletter exclusively covers activities that CoRMSA's Secretariat was engaged in. We are endeavouring to keep our members, partners and the broader network posted on the activities that CoRMSA has been conducting at the Secretariat level. CoRMSA welcomes feedback on the articles covered in this newsletter and suggestions for other subjects that you would like to see in the future. Kindly contact Alfani at communications@cormsa.org.za in this regard.

Parliamentary Update

On 26th August 2011, the President signed the Refugees Amendment Act and the Immigration Amendment Act into law. These Acts make far reaching changes to the laws governing the movement of people (both refugees and migrants) into South Africa.

Refugees Amendment Act (RAA):

- The RAA does away with the Refugee Status Determination Office, and establishes a Status Determination Committee (SDC) in its place. Each Refugee Reception Office (RRO) will have to have at least one SDC, but sub-committees of at least two people can be formed.
- Asylum seekers and refugees whose child is born in South Africa must, within one month, register their child and submit that certificate to the nearest RRO, to be included as the dependent of that asylum seeker or refugee.
- The Refugee Appeals Board can make decisions with any number of members being present. For example, one person can make a decision, provided that they have legal training.

Immigration Amendment Act (IAA):

The Amendment Act makes provision for a number of visas for both short-term and long-term stay in South Africa. The penalties for contravening the new Act have increased significantly despite the fact that DHA has not been able to effectively justify why there was a need to do so. These Acts have not yet come into effect as regulations still need to be developed to operationalize them. From the various engagements with DHA at Parliamentary level, it is apparent that in both these Amendment Acts a lot of discretion is left up to the regulations. During the process of public hearings and the debates within the Portfolio Committee on Home Affairs, many civil society organisations and MP's raised concerns that these Acts could amount to bad law-making as so much is left up to the regulations.

It is still not clear what all these regulations will entail, and we are waiting for clear guidance from the Department of Home Affairs on this issue.

For additional details on this article please contact Gail Eddy at: gail@cormsa.org.za

CoRMSA Capacity Building Project

Based on its needs assessment report, CoRMSA attempts to highlight a number of focus areas to be given priority in the endeavour to capacitate the Secretariat, the member organisations, the broader network and other key stakeholders within the refugee and migrant sector.

This means that CoRMSA will focus on capacity building through a number of different channels including its own engagement model and the development of facilitation-related competencies to strengthen the constructive interactions between the above groups.

CoRMSA aims to continue to identify and utilise the many resources that already exist within the various national networks (e.g. intellectual capital and experience, facilities, skills, etc.) to maximise the impact and reach of its capacity building initiatives.

Part of the capacity building work is now focussed on a more detailed feedback cycle that will involve engaging with member networks and organisations for the purposes of disseminating report findings and recommendations in order to provide the necessary input for the development of detailed capacity building plans at both a local and national level. This process will include the translation and prioritisation of recommendations for implementation in the local context. CoRMSA is thus commencing the implementation cycle of this process.

In the meantime, CoRMSA is also conducting capacity building workshops addressing many of the issues that have been identified by member organisations in

order to strengthen their capacity. A fundraising workshop took place in Johannesburg on the 23rd of September 2011, whilst other activities (e.g. Advocacy, financial literacy, etc.) are planned to take place later this year.

For any additional information or capacity building-related questions please do not hesitate to contact Hilton at capacity@cornsa.org.za.

Regional Advocacy Highlights

CoRMSA continues to strive to utilise various regional platforms to promote the rights of non-nationals in the region and beyond. In this regard, CoRMSA has, over the last few months, contributed to a number of initiatives aimed at addressing issues affecting non-nationals. One of these was the participation at the 13th Conference of the International Association for the Study of Forced Migration (IASFM) on governing migration. This conference was held from 3rd to 6th July in Kampala, Uganda.

CoRMSA presented a paper in one of the panels at this Conference. We attempted to look at the question of regional economic integration versus the reality of migration in our region. Through the presentations and discussions we started looking at ways we can work together and share information – particularly on the connections and migration routes leading from the Horn of AFRICA to Southern Africa in the context of proposed sub-regional integration between SADC, EAC and COMESA.

Another area of focus in our work, the promotion of signature, ratification and domestication of the AU Convention on IDPs, was also extremely well covered in panel and plenary discussions and enabled us to meet and discuss strategies with the key role players from the AU that are working on this issue. We will be taking the outcomes of all our interactions forward in our planned work activities. As an example, we are hoping to invite some of the role players we met in Uganda to South Africa during the COP17 climate negotiations in December as we use that as a platform to raise the profile of the Kampala Convention. We are also sharing the information gathered to our member organisations and wider networks through our newsletter and blog.

- **International Detention Coalition (IDC), Africa Regional Workshop, Johannesburg, 12 – 14 July**

This was the first workshop organised by the IDC for Southern and Eastern Africa and it enabled a wide range of stakeholders to come together to map a picture of immigration detention in the region. It allowed for learning from one another and fostered relationship building. Legal framework for detention, monitoring places of detention, working with vulnerable people in detention, self-care and advocacy techniques were some of the issues discussed in considerable detail. We were able

to share challenges as well as best practice whilst the IDC also provided a lot of useful information around relevant alternatives to detention. This will greatly assist us in looking forward to what we would like to see feature in a harmonised regional immigration policy. More information on the IDC can be found at www.idcoalition.org

- **SADC-CNGO, Johannesburg, 8-9 August**

The SADC Council of NGOs held its pre-Summit meeting in Johannesburg even though the SADC Summit was held in Luanda, Angola, due to difficulties in obtaining visas to Angola by the SADC NGO Secretariat and other participants. Challenges in obtaining visas was the only additional item on freedom of movement reflected in the Declaration as the Civil Society Forum did not have any migration issues on the agenda. However, input into the breakaway session on human security issues was done and it was proposed that the wording from the previous year's Declaration regarding migration issues should remain, since there had not been any progress and there was need to keep the matter on the table.

The SADC Summit also gave no consideration to issues of migration, immigration, refugees or the Protocol on the Facilitation of Movement of People in spite of the amount of references to greater and enhanced regional integration; the SADC Free Trade Zone; and the launch of negotiations for the Tripartite Free Trade Area between SADC-COMESA-ECA. As you can't move money, goods or services and ignore the implications for the movement of people (migrants, refugees and asylum seekers) collaboration through the SADC Council of NGOs is underway- they are now obliged to follow-up on matters in their Declaration - and the regional network is due to start campaigning to put people at the centre of regional integration. Members and interested parties shall be updated on a regular basis and their comments and ideas shall be accommodated to guarantee the presentation of a united front while also ensuring that issues related to the sector are kept on the regional and continental agenda.

- **Roundtable to develop a continental disability strategy hosted by the Secretariat of the African Decade of Persons with Disabilities (SADPD), Johannesburg 31 August-1 September**

CoRMSA has been raising the issue of refugees with disabilities at the African Commission sessions as it was an area that member organisations as well as disability organisations on the continent have been noting with concern. It was a great honour for CoRMSA to have been invited to participate at the Roundtable which sought to develop a new strategic plan to be adopted as an AU document and presented to the Heads of States and Governments. This 10 year strategy aims to close gaps in the UN Convention that relate specifically to disability in our continent as well as to promote the Convention to African countries that have not yet signed and ratified. The two-day meeting produced a first draft for an African strategy and it

is hoped that CoRMSA's input and the recommendations which were developed in the working group on Human Security will be taken forward into the final document.

For any additional details on this article please contact Roshan Dadoo at roshan@cormsa.org.za

CoRMSA Human Security Advocacy

Commemoration of National Women's Month Workshop: 22 August 2011

The month of August is also known as women's month, a month dedicated to celebrating women in South Africa and their achievements. The Foundation for Human Rights (FHR), the Department of Justice and Constitutional Development (DoJCD) and the Human Rights Institute of South Africa (HURISA) partnered to host a one day workshop to commemorate this special month. The event that CoRMSA attended was held on the 22nd of August 2011 at the Parktonian Hotel in Braamfontein. The objectives of the workshop were to create awareness on the African Commission on Human and People's Rights (ACHPR) protocol on women and the SADC Gender Protocol amongst civil society organizations. To provide a forum for the discussion on the impact and relevance of these regional mechanisms on the advancement of women's rights in the region, interrogate how effective these legal regional mechanisms and institutions have been in terms of enforceability, and to explore methodologies to make these instruments more relevant and accessible at a local level. Presentations were made by the representatives of the African Commission for Human and People's Rights (ACHPR)-South African Commissioner, NEDAP Gender Unit, Alliances for Africa, CIVICUS, the Southern African Litigation Centre, the Commission on Gender Equality, FHR and HURISA.

A particularly interesting presentation was made by Dr. Teboho Maitse, a Commissioner with the Commission on Gender Equality (CGE), focusing on the role of national independent human rights bodies in the implementation of regional instruments. In her input, the Commissioner stressed the important role civil society plays in monitoring government implementation of gender instruments. She assured participants that part of the mandate of the CGE is to partner with the civil society to highlight, among other issues, the plight of women asylum seekers and refugees, noting that the trafficking of migrant women and children into South Africa has received minimal attention and yet it is possibly one of the most pernicious forms of all human rights violations, citing two recent cases the CGE was engaged in with the Limpopo and North West Provinces, involving women and girl children. She called upon the South African government to sign and ratify the *1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. Dr Maitse noted that while South Africa has diligently submitted the CEDAW reports to the United Nations treaty bodies, this has not been the case at the SADC and African Union level. Civil society was urged to ensure monitoring of government discharge of its obligations by taking part in shadow reporting and partnering with government to provide technical expertise in compiling the reports where required.

Consultative meetings on Sexual and Gender Based Violence

To mainstream cross-cutting human rights issues, CoRMSA conducted a stakeholder consultative process by setting up meetings to discuss gender related issues, as they affect migrants and particularly those involving Sexual and Gender Based Violence (SGBV). The overarching objective of this project is to work towards a collaborative response in combating sexual and gender based violence within migrant communities, including targeted responses to combat trafficking of women, girls and unaccompanied minors in South Africa. Specific objectives of this project include: (i) contributing towards the development of a competent network of activists willing and able to advocate for the protection and promotion of the rights of victims of gender based violence including human trafficking, through the use of international and regional human rights standards and norms; (ii) enhancement of the capacity of CSOs, NGOs, CBOs to identify and assist victims of SGVB and human trafficking; (iii) enactment and strengthening of laws to protect victims of trafficking; (iv) monitor the implementation of gender policies by government agencies, especially programmes designed to protect migrants who are victims of SGBV; (v) enhancing civil society ability to advocate for legal and institutional reform towards the protection of rights of victims of human trafficking.

During this quarter CoRMSA has met with over ten representatives of various member and non-member organizations to discuss gender based violence as it affects migrants. The outcome of the meetings has been the notable revitalised interest of CoRMSA members and stakeholders willing and ready to engage on gender related themes of our work. Plans are afoot to engage government's Anti-Trafficking Unit based at the National Prosecuting Authority in Pretoria. Canvassing Chapter 9 institutions such as CGE to actively participate in this process will be priorities for the next quarter. The findings of the consultative process on the situation of SGVB, particularly in terms of civil society capacity to respond effectively, will be highlighted in the next issue of the CoRMSA newsletter. All those interested in participating in this working group please contact the secretariat for more details.

Hate Crimes Work

Hate Crimes Working Group (HCWG) meetings have been held monthly since May 2011. Correspondence was dispatched by the HCWG to the legislative drafting section of the Department of Justice and Constitutional Development (DoJ) seeking clarity on the timeframe in which the Hate Crimes Bill will be ready for presentation to Parliament. Clarity was also sought on the kind of additional expert/technical input civil society can provide over and above the "*Background Paper on Hate Crimes Legislation and Recommendations*" made available to the DoJ in September 2010. A request for a roundtable meeting with the drafting team to discuss plans for further engagement with the Department was also made. The Advocates responsible have informally communicated that they are in receipt of our correspondence and are planning to have a roundtable discussion with members of the HCWG and will communicate formally with CoRMSA to that effect, in due course.

Key activities conducted by the HCWG include the development, circulation and adoption of the *Hate and Bias Monitoring Form* by the group and ongoing fundraising efforts to secure fieldwork staff that will ensure that the Form is rolled out as soon as possible. The group has also maintained links with Amnesty International London Office and the Human Rights First (HRF) in Washington for expert input and

strategic advice. In terms of increasing public awareness of the project, there was considerable press coverage with at least three group members speaking publicly on television and radio in response to hate crime incidents such as the attacks on lesbian women in May and June 2011. The group discussed and adopted suggestions to formalize the structure of the group somewhat, so as to ensure that the consistent running of the affairs of the group is managed by a Steering Committee. The secretariat drafted Terms of Reference and the group is set to formally adopt them at its first quarterly meeting scheduled for the 16th of November 2011 in Gauteng. A formal notice will be sent out shortly. Members and observers are encouraged to attend.

A significant milestone for the HCWG has been that two members of the group (a representative from Human Rights Watch and the UNISA Centre for Applied Psychology) currently sit on the interim task team on the 'corrective rape' intervention plan and the LGBTI issues in the criminal justice system. This positions the group to influence the larger agenda of developing holistic legislation that not only seek to combat hate crimes against the LGBTI community, but broader laws and attitudes as well as policies that will ensure proper justice and policing responses to hate crimes motivated by xenophobic attitudes, racial, gender and related prejudices.

For any additional details on this article please contact Wozani Moyo at wozani@cormsa.org.za

Highlights on Access to Services:

Over the past few months work around this portfolio has focused on ensuring that access to services is improved for the groups that we serve. In this regard, CoRMSA has continued to engage with the Department of Education to ensure improved access to education for refugees. To this end, CoRMSA has continued to disseminate information on accessing education.

DHA: Over the last few months CoRMSA has written to the Department of Home Affairs on the challenges experienced by refugees with regards to accessing the asylum system which have been compounded by the closure of the Crown Mines office. We have also presented a plan to the Deputy Minister's office on Stakeholder Engagement as this process will ensure that there are clear lines of engagement between the Department and various actors in the field. Acknowledgement has been received in this regard and we are following up to ensure that we revitalise the engagement between DHA and civil society which is currently at an almost all time low.

In order to contribute towards improved service delivery at Refugee Reception Offices in the country, CoRMSA will soon be embarking on a monitoring project and findings from these monitoring visits will be shared with the Department with the aim of improving services and access for asylum seekers and refugees. We continue to communicate with the Department regarding the non-issuance of refugee travel documents, IDs, changes on the extension of refugee status and other issues that have been raised by various stakeholders in the field.

CoRMSA is also planning to make a submission on the National Health Insurance to ensure that non-nationals are also included once this health insurance is implemented.

CoRMSA has also continued to participate at the Unaccompanied Minors Forum currently chaired by the Gauteng Department of Health and Social Development whose aim is to ensure effective protection of all unaccompanied minors in the province and beyond. To this end, CoRMSA was part of the Task Team responsible for planning and putting together the programme for a seminar on unaccompanied minors that was held at the end of September with a follow-up seminar scheduled for October 2011.

CoRMSA has also participated at the City of Johannesburg's consultative meeting aimed at discussing the Gauteng Growth and Development Strategy. Our aim for participating is to ensure that issues affecting non-nationals in the province are included in this strategy and addressed.

We continue to make inputs into the National Action Plan as part of the Steering Committee chaired by the Department of Justice and Constitutional Development and the Foundation for Human Rights. We will keep the sector informed of the developments in this regard particularly also around civil society consultations as it is important that we make inputs into this process.

CoRMSA is currently engaging various stakeholders, including political parties, trade unions, church groups to ensure that the rights of non-nationals are protected in the country. We will keep you on some of these engagements as the process progresses.

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Communications Strategies on Detention and mass Deportations

CoRMSA is highly concerned about the detention and mass deportations of Zimbabwean nationals. Detention is one area where migrants are particularly vulnerable. Their rights to physical integrity and to non-refoulement are often abused. Therefore, CoRMSA would like to promote the use of its *Handbook for Legal Practitioners: Assisting in Matters of Arrest and Detention* which is a practical tool for legal practitioners, paralegals, law enforcement entities and individual non-nationals in the country to challenge any unlawful practice in this regard. This manual provides selected extracts from relevant laws and regulations as well as comments on what should happen in practice with regards to arrest and detention. This booklet could be used as a guide by those that will play a watchdog role upon the resumption of mass deportations.

CoRMSA is also looking at expanding the distribution of this booklet to make it readily available at the potential deportation centres such as Lindela in Johannesburg, SMG in Musina and other facilities.

Swift response to mass deportations:

CoRMSA, in consultation with HANSA, created a new group “*Emergency Reports during Deportations*” on SA Emergency website: <http://saemergency.net/>. This group was initially created to monitor arrests and mass deportations of Zimbabwean nationals in South Africa but it could also serve for any other similar reports on non-nationals in the country.

For a better, faster and coordinated reporting of emergency cases, CoRMSA would like to encourage its network to use the new group on the above website to report or post comments on detention and deportations. This is how you can get to the new group: use the address above to register with SA Emergency. After you have registered, log in with your email address and select *Join a new group* under Groups option. Different groups will be displayed and you have to scroll down to get to the **Emergency Reports during Deportations** group which you can open to report any emergency incidents.

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CoRMSA reserves the right to edit and/or shorten any article received for the purpose of this newsletter.