



## **CoRMSA Newsletter**

### **Edition 4 — July 2011**

Welcome to the fourth edition of CoRMSA's Newsletter. This month's newsletter is structured in two main parts: (1) Current affairs, and (2) Updates on the developments in the sector. In terms of current affairs, we are addressing the end of moratorium and its implications on Zimbabwean nationals in the country. Under updates, we have covered the 2012 school admission processes, monitoring outcome at Marabastad Refugee Reception Office and other issues.

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, [communications@cornsa.org.za](mailto:communications@cornsa.org.za) in this regard.

#### **I. End of moratorium and its implications:**

##### **Back to Deportations: The end of the Moratorium.**

##### **Background:**

In April 2009, the South African Government imposed a moratorium on deportations to Zimbabwe. This decision was motivated by an appreciation of the socio-economic and political challenges facing the country. It was also inspired by a need to decongest the Refugee Reception Centres as Zimbabweans were now clogging the system, making it difficult for other nations to be processed. In 2008 alone, over 200 000 Zimbabweans were deported from South Africa. Yet the influx of those coming into the country continued. After the announcement of the moratorium on deportations, the Government of South Africa also introduced a 90 day free visa regime for those seeking to come to the country to visit or do business. A special dispensation was also announced in September 2010 which allowed undocumented Zimbabweans in South Africa to apply for work, study and business permits under the Zimbabwe Documentation Project (ZDP). The ZDP ended on the 31<sup>st</sup> of July 2011 and there will be life-changing implications to the conclusion of the project for many Zimbabweans in this country.

The biggest fear faced by Zimbabweans in South Africa is the resumption of deportations. It simply means that failed asylum seekers and other immigrants will now be subjected to the random demands for papers, brutal and mass transportation to Lindela and the Musina holding facility, among other things. In Musina for example at the peak of the deportations in 2008, women, children and men were housed for days in sweltering heat and in the same confines without the necessary ablution facilities. In Lindela, the conditions were described by the Zimbabwe Exiles Forum as “life-threatening”. Many Zimbabweans fear a return to this situation.

### **Back to Reality**

The over 6 000 Zimbabweans who applied for amnesty for using fraudulent documents will have to confront the reality of reverting to their real names. Some of them stand to lose licences, policies and even employment if Government does not come to their rescue.

### **Back to paid visas**

For those in Zimbabwe, there is the added apprehension that the paid visa regime will be reintroduced. In the past, Zimbabweans applying for visas through the Embassy in Harare would be required to pay a total of R3 000, which was not affordable. If that happens, it simply means that those who would like to do business in South Africa will be unable to meet the cost and therefore be forced to “jump” the border at a high risk of rape and robbery.

It is worth noting that there are a host of human rights related issues associated with deportations that the South African government has to take into account before they resume. There are also cost implications to the South African economy. There is therefore a need for a plan that can be worked out with the input of civil society to ensure that the rights of Zimbabweans in South Africa, including undocumented immigrants, are safeguarded. Most of all, there is a need for South Africa to assume a more robust approach to the Southern African Development Community (SADC)’s handling of the political and human rights crisis in Zimbabwe to ensure that Zimbabwe does not continue to be a pose challenges to its neighbours. ***For more details on this article please contact Gabriel Shumba: [gabmrech@gmail.com](mailto:gabmrech@gmail.com)***

### **Lawyers for Human Rights raise concerns about respect for human rights during the deportations to Zimbabwe.**

Lawyers for Human Rights (LHR) are concerned about the large numbers of Zimbabweans who will become vulnerable to arrest and deportation in August when the moratorium on deportations is lifted. This moratorium has been in place since April 2009 when Home Affairs took the decision not to carry out any further deportations to Zimbabwe for a defined period. The moratorium was supposed to be implemented together with a special dispensation for Zimbabweans to be able to regularise their immigration status. However, this special dispensation was only implemented from September to 31 December 2010. Any Zimbabwean who failed to

successfully apply for one of the available permits during this time may be legitimately deported for not having any authorisation to remain in the country. This deportation process will, however, exclude any Zimbabwean who is in the asylum system and has a valid asylum seeker or refugee permit.

### **How many Zimbabweans are vulnerable to deportation?**

There are estimates of up to 1.5 million Zimbabweans in the country. About 130 000 of these are in the asylum system and just over 133 810 (out of the 275 514 who applied under the ZDP) have so far been approved for the ZDP permits. This leaves more than a million people still vulnerable to deportation. Some of these persons are in possession of permits in terms of the Immigration Act but this is likely to be only a minority.

These last few weeks have seen many Zimbabweans scrambling around in an attempt to protect themselves from possible deportation procedures. According to Kaajal Ramjathan-Keogh, at Lawyers for Human Rights, “The detection of undocumented foreigners in South Africa has largely been informal and impromptu. There is no specialised immigration enforcement unit which seeks out specific persons who may be illegally in the country. The detection work is mostly carried out by police officers who hand any suspected illegal persons over to immigration for investigation”. She added that, “This process of arrest and confirmation of immigration status could take anything from a few hours to a few weeks to finalise before an illegal foreigner is ready to be deported. From our observations in the pre-April 2009 period deportations to Zimbabwe usually took place very frequently so that detained persons did not spend an overly long time in detention pending deportation. This was however dependent on the location of the arrest and numbers of people who were awaiting deportation. We also observed that many deported persons did choose to return to South Africa”.

LHR is aware that Home Affairs intends to fingerprint deported persons so that they can keep track of persons who have been deported previously. However we are not aware of what Home Affairs intends to do with people who routinely migrate through irregular means and are repeatedly arrested for being unlawfully in the country.

### **Rights of Zimbabweans in the deportation process**

LHR maintains that Zimbabweans have the same protection needs as other persons. They are entitled to the protection and respect for basic rights during the deportation process. LHR would warn against repeated mass raids directed at the Zimbabwean communities. We would instead recommend some pre-arrest preparations to facilitate the smooth reintegration of Zimbabweans back to their country. This would include the ability of deported persons to be able to gather the necessary documents and personal belongings when the deportation proceedings are pending. These documents would include: health documents especially those with details of any ARV regimes, birth documentation for children born in South Africa, Zimbabwean identity documentation, etc.

These are the basic rights which should be guaranteed as part of the deportation process:

- Right to life, dignity, freedom from bodily harm;

- Right to due process and administrative justice;
- Right to confirmation of documentation status if a person is arrested without their documents on them;
- Right to collect any payments for work done, and other valuables;
- Right to non-refoulement (not returning a person to a country where their life or fundamental rights may be in danger);
- Right not to return a stateless person to a country which does not recognise them as a citizen.

LHR concerns:

Children and other vulnerable groups of people will become caught up in this deportation process and that there may be little consideration of their protection needs.

Documented Zimbabweans or Zimbabweans that applied under the ZDP but haven't yet received their permits may be caught up in deportation proceedings, if procedural safeguards in the Immigration Act are not adhered to.

Ramjathan-Keogh added that, "As the avenues for Zimbabweans to regularise their immigration status closes up, it is likely that some people may, out of desperation, seek to acquire fake identity documents to enable them to remain in the country. This is likely to have very serious consequences if they are detected as this could attract both a criminal record as well as a custodial sentence". ***For more details on this article please contact Kaajal: [kaajal@lhr.org.za](mailto:kaajal@lhr.org.za)***

### **ZDP Process Update: Much remains to be done**

The Department of Home Affairs' (DHA) Zimbabwean Dispensation Project (ZDP) has reached its originally proposed deadline on the 31<sup>st</sup> of July and the moratorium on deportation of Zimbabweans has been extended to end of August 2011. In the weeks leading up to the 31<sup>st</sup> July deadline, PASSOP along with many other civil society organisations appealed to the DHA for an extension of the deadline. Thankfully the DHA announced in the last week of July that the ZDP process will be extended until the end of August in order to finish processing and issuing the outstanding permits. This 'extension' is a welcome move, but despite this, it is far from certain that the additional month will suffice in issuing the outstanding permits.

Based on our close monitoring of the process at the Wynberg DHA offices, it is clear that the DHA is at present far from completing this project. According to the DHA, only 133,331 of the 275,762 applications had been issued as of the 30<sup>th</sup> of June, leaving over half of permits (over 142,000) still need to be issued. Although it is unclear how many were issued in the month of July, if the progress at the Wynberg offices is anything to go by, there are likely to be in the region of 80,000 – 100,000 permits that remain to be issued. Although the adjudication process may be completed, the difficult and time consuming part of the process is exactly the issuing and distribution of permits.

Through interaction with thousands of Zimbabweans in recent weeks through monitoring at Home Affairs, phone calls or office visits, it is doubtful that the August deadline will be met. For example, there remain thousands of applicants who are yet to receive even a confirmation SMS indicating that their permit application has been logged into the central database. This includes those waiting for the Zimbabwean Consulate to issue the outstanding passports and those who have not yet been instructed to report to the DHA and have their fingerprints taken—a process which can only be done after the application has been logged. The mathematical requirements of distributing somewhere in the region of 90 000 permits in 20 working days, which translates into roughly 4500 per day, is no small feat. Our monitoring at Wynberg DHA office, which is by far the largest in the Western Cape Province, in the last week of July found that, on average, only 30 permits were issued per day. Unless capacity is seriously strengthened at DHA offices around the country, it is highly unlikely that this mammoth task will be completed in time. ***For more details on this article please contact David: [david@passop.co.za](mailto:david@passop.co.za)***

### **Responding to Mass Deportations:**

Concerned about mass deportations of Zimbabwean nationals that are likely to resume at the end of August, CoRMSA has created a new group (**Emergency Reports During Deportations**) on SA Emergency website in order to monitor deportations. CoRMSA is therefore encouraging all the network members, partners and any other concerned parties to actively post their comments on any irregularities noticed during deportations.

Monitoring deportations:

#### **1. What is an emergency?**

In the context of deportations, an emergency could be considered as a situation that threatens people's safety and security, health, and social stability. Such situations require an immediate action and a momentous coordinated response.

#### **2. Who could be vulnerable?**

- i. Pregnant women
- ii. Children (especially unaccompanied minors)
- iii. Elderly people
- iv. Disabled persons
- v. Mentally challenged persons
- vi. Sick people, including persons Living with HIV/AIDS
- vii. People with valid documentation, including recognised refugees and asylum seekers being arrested and deported without verification of their status.

#### **3. How we could help: Planning for a coordinated response**

There is need to specify the tasks to be performed by all organisations that are likely to be involved in emergency interventions. This would provide a better coordination of services.

For a better coordination of services, organisations would do well to form task teams according to their main areas of intervention such as:

- Law based entities
- Health practitioners
- Child based organizations
- Humanitarian or relief organisations
- Human rights advocacy based organisations
- Faith based organisations
- Psychosocial support based organisations

#### **4. How/where to report emergency cases**

For a better, faster and coordinated reporting of emergency cases, CoRMSA would like to recommend the network to use SA Emergency: <http://saemergency.net/>

**How does this link work?** Click on the link above and 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 click “**Emergency Reports During Deportations**” which you can use to report any emergency incidents.

Note that this should not replace telephone calls, sms and other traditional means of communication we have at our disposal.

## **II. Other developments in the sector:**

### **2012 Admission Processes for Public Schools**

The Admissions Coordinator at the Department of Education (DoE) called a Principals meeting recently to discuss how admissions into public ordinary schools for 2012 school year would be managed. The purpose of the meeting was to determine the process of registration, re-registration and late registration for admissions into public schools. It was also intended to determine timeframes within which these processes would be managed. It finally meant to provide School Governing Bodies with the processes and procedures for the administration of admission into schools so that they may align themselves with School’s Admissions Policy, processes and procedures.

#### **Admission processes:**

##### **Criteria to qualify for waiting list A:**

Preference should be given to learners whose parents’ home or work addresses are close to the school, learners from primary schools in the vicinity or those having siblings at the school.

Upon application, Principals should:

- Provide prompt written response to parents
- Record submission data
- Provide sequential waiting list numbers
- Place the learner on waiting list B (if not qualified for list A) and request parents to apply at a nearest school.

### **Criteria to qualify for waiting list B:**

Learners who do not qualify for list A should be considered for list B.

### **Timeframes for the admission process:**

- Registration: 01/08/2011
- Re-registration: 01/08/2011 to 12/08/2011
- Acknowledgment of application: Upon submissions
- Waiting list A and B: Upon submissions
- Late registration: After 30/09
- Response of Principals to parents: 24/10/2011 to 04/11/2011
- Completion of placement by the District: 25/11/2011
- Declaring school full: After the completion of the whole process. No school can be declared full before the end of the whole exercise.

*N.B: Only the District Director can declare a school full in a written form.*

### **Admission of learners:**

Schools must admit learners registered on waiting list A or B chronologically, and then the District Director will sign off, upon satisfaction, the waiting list prior to a notification of the Principal to the parents on their application. Principals can only notify parents of the success of their applications after the lists are signed off by the Director. Successful parents should then submit the return slip (given to them by Principals upon submissions/application) indicating their acceptance or decline of the place allocated to the learner. Learners on list A or B that are not placed by the school must be managed by the District Office in consultation with school principals in affected areas. These learners will then be placed by the District Director not later than 18/11/2011 through a consultative process of cluster meetings of Principals in the affected geographical areas.

### **Late registrations:**

School Principals will be responsible for receiving applications for late registrations. All applications received by schools after 30/09/2011 should be acknowledged and recorded under the late registration waiting list A or B. The Principals should submit these lists to the District Director on a weekly basis.

The Coordinator also recognised some challenges being faced by both school and the Department. Some of those challenges include:

- Shortage of schools and classrooms (especially in the inner city)
- Relocation of learners
- Forged addresses to gain entry into schools
- Siblings approach
- Non-compliance to the Policy
- Early registrations by schools
- Poor advocacy
- Age requirements
- Pre-registration interviews
- Placement tests
- Admission deposits
- Interest forms
- Obsolete policies
- No admission committees
- Treatment of non-South Africans in terms of exemptions, language, overage
- Placement of Grade 12 learners
- Pressure points, grades 1 and 8.
- Offering of bursaries to manipulate the admission process.

The Coordinator called upon Principals to address such issues accordingly and operate in accordance with the education policies. And he emphasized that the Department would not tolerate any ill practice by schools.

CoRMSA encourages parents, through its membership and the broader network, to apply for admissions within the timeframes set by the Department.

**GDE Admissions Coordination contact details:**

Mr. Petlele: Tel: 011 666 9142/3/5/6 and Mrs. Tenji: Tel: 011 355 0632 / 011 843 6535.

**Monitoring in Marabastad:**

CoRMSA and the Coordinating Body of Refugee Communities (CBRC) conducted a three day visit at the Refugee Reception Office in Marabastad/Pretoria to monitor service delivery.

Monitors came across applicants from as far as Mpumalanga, North West province and Johannesburg who had visited the Office on many occasions but had never been able to secure any service. Some of them had visited the office for two consecutive weeks without any success.

Some applicants allegedly claimed to have paid money for services but this did not guarantee them any service. At most, the money they paid either to police officers or

security guards facilitated them to enter the lines that were heading into the office premises. It was not a warranty to receive any service. On average, an individual could pay up to R350 in the endeavour to access the Office. Sadly, some applicants, mostly from Zimbabwe, take advantage of this confusion to extort money from their desperate fellow countrymen. They demand money in the name of some fictitious Home Affairs officials promising services in exchange.

Once inside the Refugee Office premises, people are forced to sit between each other's legs so they do not break lines. While seated, they are not allowed to stand, move or ask any questions. Most of the times they are made to remain in such positions for long hours without being given any permission to use toilets.

A considerable number of applicants have been visiting the office for more than two weeks without getting served and most of them testified that on some occasions they had been asked money by police officers, security guards and Home Affairs officials in exchange for service. Quite often, the collection of money is done by agents.

Out of desperation and an apparent confusion for not knowing what is happening, some applicants suggested that the Department of Home Affairs should officially charge their services so that everyone is aware of how much they should pay and prepare accordingly. This was thought by many to be an alternative to putting an end or decreasing the alarming rate of corruption at the Office.

There were also many complaints among the applicants that they were not being given any directional signs as to what should happen next. People are not told what to do, where to go and when to come back for services. And this was again evident by looking at people scattered around the field across the Office.

Large numbers of Somalis and Ethiopians are not being assisted. They spend nights in the field across the Refugee Office. It seems like the "First country of safety" law is already being implemented.

There are also many ladies, mostly from Zimbabwe, who spend nights outside the Office fence with their babies hoping that they would be served the following morning but this does not always happen. They were however concerned about their babies' health given that they witnessed a child dying on Monday (01/08/2011). ***For more details on this article please contact Alfani at CoRMSA (011 403 7560) or Darius/Dahir at CBRC (011 333 6599).***

### **ARESTA uncovers misconceptions surrounding citizenship birth rights**

Out of concern that refugees in South Africa may be ill-informed about rights to citizenship by virtue of being born in this country, ARESTA had embarked on a survey to assess public awareness around this issue. The primary question of this research was whether or not refugees are aware that children born in South Africa do not automatically become South African citizens. The survey targeted different nationalities in the Cape Town area. The majority of those that participated in the

survey proved to be misinformed about the laws around children born to refugees in this country. Of those who are aware that a child may not be automatically granted citizenship upon birth, many admitted to have heard it but remained sceptical as to whether it is true.

Often, when respondents claim to be aware that their infants are not automatically citizens, they mistakenly believe that once that child turns 16 or 18, they would then be able to choose to be a South African citizen. Misconceptions surrounding citizenship birth rights abound regardless of nationality, duration of stay in South Africa, and the level of education. Though limited in scope to refugees in the Cape Town area, this study has illuminated the need for better public awareness about how one can attain South African citizenship, particularly as it relates to the birth of an infant to refugee parents in this country. ***For more details on this article please contact Fred: [advocacy@aresta.org.za](mailto:advocacy@aresta.org.za)***

### **Refugee Children's Project (RCP) delegate gets nominated as Speaker of the Nelson Mandela Children's Parliament.**

As a recipient of funding by Nelson Mandela Children's Fund, RCP was actively involved in some activities on the Mandela Day. This year the celebrations coincided with the launch of the Nelson Mandela Children's Parliament which was hosted at the Gauteng Provincial Legislature. The Parliament serves as a forum that facilitates the expression of children's views nationwide by holding accountable those in authority. RCP delegated three children to a Parliament that was fairly represented by all South African provinces. One of the three delegates from RCP was voted as the Speaker. She is currently involved in many activities conducted by the Nelson Mandela Children's Fund. RCP resolved to sponsor this child's tertiary education once she completes her grade 12 this year as a way to congratulate her for her succession to a new and meaningful position.

### **Education campaigns:**

RCP has been working towards informing refugee and migrant parents about 2012 registrations to ensure that they register their children on time. They have approached the Department of Education (DoE), District 9, to learn more about the admissions processes for next year. The Admissions Coordinator is determined to engage all the key players to ensure that there are no children left out during the exercise.

The number of applicants has been increasing significantly and parents are being encouraged to contact schools within their feeder zones and report any irregularities encountered to relevant organizations. RCP is also working towards reviving the Placement Committee which has gone stale. It is a strategic Committee made of the DoE, school principals and NGOs. Its main role is to assist all children to get enrolled into schools and access an education. This Committee was very effective in 2009 and it is hoped that it would be more effective this year.

## **Computer classes for refugee school children and Vocational Training Centre for refugee women**

As it was indicated in the previous newsletter, the computer lab for school children and the sewing classes for women have resumed. RCP would like to inform the network of such activities and asks all the members of the network to encourage refugee school children and women to enrol for these programmes. ***For more details on this article please contact Germain: [germain@rcpsa.org.za](mailto:germain@rcpsa.org.za)***

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