



CoRMSA Newsletter

Edition 3 — June 2011

Welcome to the third edition of CoRMSA's Newsletter. This month's newsletter covers issues related to the World Refugee Day commemorations, progress on the development of the National Action Plan to combat racism and xenophobia, notable improvements at Port Elizabeth Refugee Office, parliamentary update on Refugees and Immigration Bills as well as RROs, an overview of the South African Local Government Association (SALGA) report and other achievements made by organisations in the sector during the last month. We thank all the contributors. 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 in this regard.

CoRMSA: Parliamentary Update

On 21st June 2011, a day after the Refugee Day was commemorated worldwide, the Refugees Amendment Bill and the Immigration Amendment Bill were both signed off by the Home Affairs Portfolio Committee. They have been sent to the National Assembly for assent, and the President will then sign off on the Bills.

The Department of Home Affairs (DHA) also presented a report on the status of the Refugee Reception Offices (RROs) to the Home Affairs Portfolio Committee. One of the problems highlighted by the DHA was finding suitable premises for RROs.

Following is the status of RROs and their lease agreements:

Johannesburg: Businesses around Crown Mines obtained a court order for the RRO to move on 31 May 2011. This RRO has since relocated to Pretoria Showgrounds.

Pretoria Marabastad: RRO premises are owned by the government.

Pretoria Showgrounds: The lease is on a month to month basis, while the DHA looks for a permanent alternative.

Cape Town: There is a court order to move, and the DHA is now renting on a month to month basis while looking for a more permanent alternative.

Port Elizabeth: The lease agreement expires on 30th November 2011.

Durban: The lease agreement expires on 31st October 2011.

Musina: The lease agreement expires on 31st August 2013. Additional capacity is also required.

The DHA has also received notices from businesses in Port Elizabeth and Musina to move away from where they are currently located.

The DHA expresses a desire to have permanent RROs that are in good, humane conditions for both its employees and asylum seekers. However, court challenges to move have made upgrading existing RROs very difficult.

The DHA also said that in the long term they would possibly want to move the RROs to areas that are located around the border. However, a final decision has not yet been taken. But in light of the decreased period of the asylum transit permit to 5 days, the DHA feels that this would make sense. The DHA is thus in the process of 'rationalising the points of entry', and decisions need to be made on where exactly to establish the centres. Once the blueprint for where RROs should be located is finalised, then more permanent and well-resourced structures could be established. However, the DHA said that this is a long term process which also needs to be budgeted for.

The DHA has also initiated bi-lateral discussions with Tanzania, Zimbabwe, and Lesotho regarding 'sharing the burden' of asylum seekers in Southern Africa. Meetings are also being set up with Mozambique, Swaziland, and Botswana. Part of this is to look at the integration of systems, and the sharing of databases to see if people already granted refugee status in other countries are coming into South Africa. The DHA also noted that it is important for bilateral engagements to move into a multilateral level within SADC. An immigration unit in SADC will discuss ways to deal with this commonly and put work towards putting 'harmonious' laws in place. This process started a year and a half ago, and the DHA hopes that as bi-lateral relationships are strengthened, the multilateral engagement will be also strengthened. ***For more details on this article please contact Gail: gail@cormsa.org.za***

Progress on the National Action Plan to address racism, racial discrimination, xenophobia and related intolerances in South Africa

CoRMSA currently serves in the Steering Committee responsible for the development of the National Action Plan to address racism, racial discrimination, xenophobia and related intolerances which is coordinated by the National Forum against Racism at the Department of Justice and Constitutional Development. The Steering Committee held its first meeting of the year on 21 June 2011 after a period of inactivity for almost over a year. The purpose of the meeting was to review the status of the Draft National Action Plan and decide on the plans to move the process

forward. The meeting was well attended by various government departments, civil society organisations, Chapter 9 Institutions and some UN Agencies.

Progress report from DoJ indicated that the plan is still in draft format. There was therefore a need to put more effort into ensuring that it was finalised and that Consultative processes take place to ensure that the views of the broader society have been incorporated into it. It was also noted that South Africa is expected to showcase progress it has made so far with regards to addressing issues related to racism and xenophobia on 20 September 2011 at the UN General Assembly in New York. DoJ presented a Roadmap on how the process will move forward. The first step is to finalise the draft NAP, then present the final document to the cabinet for approval before conducting a public consultation process. Upcoming plans with regards to moving this process forward include consultations with various government structures (departments and clusters), public consultations, and finalisation of the NAP and roll-out the implementation. CoRMSA raised a concern around the NAP not being part of the Minister of Justice's current Performance Agreement with the President and there was an undertaking from DoJ that this process will be taken forward with the Minister. CoRMSA will continue to participate in this process to ensure that the discriminative issues affecting our sector are addressed in the plan.

The National Planning Commission (NPC) and the Department of Arts and Culture DAC made presentations at this meeting with DAC focusing on the work they have done and plan to do on promoting social cohesion and NPC on the findings contained in their Diagnostic Report on the state of South Africa. The public has been requested to make comments on the Diagnostic report and South Africa's proposed vision 2030. ***For more details on this article please contact Mpilo: mpilo@cormsa.org.za***

Xenophobic comments by the Chairperson of the Portfolio Committee on Home Affairs:

It is with great regret that a few days after the meeting to work on the National Action Plan to combat racism and xenophobia, the Chairperson of the Portfolio Committee on Home Affairs made xenophobic comments that could amount to hate speech about the presence of foreign nationals in this country. Her comments were condemned by some sectors of society while lauded by some as representing the true feelings of many in the country. While Ms Maunye made an apology a few days later on her statements, the damage had already been done judging by some readers' comments on some of the country's newspapers in response to these remarks. CoRMSA and partners continue to appeal to leaders to be responsible in statements that they make and strive to promote social cohesion at all times.

ZDP Developments: Follow-up Meeting with the Zimbabwe Consulate in Johannesburg.

Subsequent to the meeting held in April 2011 between CoRMSA and the Zimbabwe Consulate, another meeting was held on 14 June 2011. This meeting was aimed at clarifying several inquiries around the ZDP especially from the general public and the Western Cape Refugee Network and other CoRMSA members and partners.

Purpose of the meeting

The objective of the meeting was to get the ZDP stakeholders concerns clarified. Of particular concern was the (i) Applicants left without passports, (ii) inadequate information and misleading communication on the distribution of the passports in Bellville, Cape Town (iii) the inadequate notice given to applicants for them to collect their passports in Cape Town, (iv) allegations of corruption and the (v) lack of queue control in Cape Town where passports were distributed at the end of April.

Response from the Consulate

In terms of statistics, the consulate advised that between September 2010 and May 2011 72 000 passport applications were received. Of these over 60 000 passports have been issued and 12 000 applications remain to be issued. Between May and June the consulate continues to receive an average of 300 applications a day.

(i) Cape Town applicants left without passports

The consulate advised that 7000 passports were taken to Cape Town for distribution at the end of April but had to return with 500 of them, after their owners did not turn up to collect them. While acknowledging that not all Zimbabweans based in Cape Town received their passports, the consulate expressed disappointment at this, as it was unable to return to do so, owing to the prohibitive expense. It can however consider visiting farming areas, such as Mpumalanga province, only if a considerable number of farm workers need documentation, as was the case in the Limpopo province where over 8 000 passports were issued at the behest of farmers. The consulate is also unable to request for assistance in distributing passports from the South African counterpart, for unclear reasons. Since May Cape Town residents have been coming to collect their passports and when they arrive, they are given priority over the Gauteng based residents.

(ii) Inadequate information on the ZDP process from Zimbabwean authorities

The consulate conceded that at the beginning of the process (2010) there may not have been the desired level of responsiveness. However this gap had been closed as the consulate website, www.zimbabweconsulate.co.za, provided regular updates on the ZDP.

(iii) Inadequate notice and misleading information to Cape applicants

CoRMSA pointed out that the decision to distribute passports in Cape Town was made publicly available only a few days before the consulate visited Bellville, thus causing some applicants to travel to Johannesburg to collect their passports. The consulate maintained that information was made available on the website in time and that in any event the applicants had been sent smses well in advance informing them to visit Bellville to collect their passports.

Stakeholders had raised the concern that some smses were misleading in that applicants were directed to collect their passports in Bellville between the 29-30th of April, yet instead had their names called on the 28 April. Persons unattended on the first two days had their receipts collected and told to return to collect passports the following Tuesday, yet by the time they returned the consulate had left for Johannesburg with their receipts. Moreover, there was no one to answer questions or address concerns. The consulate stated that applicants who could not be attended on the first two days were told to return the following day on a Saturday, not the next Tuesday. It appears that there had been miscommunication on the dates and most of those whose receipts were collected had travelled to Johannesburg and collected their passports.

(iv) Allegations of corruption

Rumours of bribery and corruption were rampant as several people reported to PASSOP monitors that they had been helped sooner because they had paid off a representative. The consulate challenged organizations and individuals who have concrete evidence of corrupt practices by consulate officials during the passport distribution process in Cape Town to approach the consulate and present it. It will then take the appropriate action against the individual officers concerned.

(v) Lack of queue control in Cape Town

The consulate acknowledged that the queues could have been better managed but that the majority of applicants were able to collect their passports and thus they considered the mission to have been largely successful.

General

The consulate expressed gratitude to the South African authorities for rolling out the dispensation to Zimbabweans and maintained that they enjoy a good relationship with them. The consulate informed that it visits Lindela on a weekly basis and notes that undocumented Zimbabweans continue to be deported, in spite of the moratorium on deportations. CoRMSA explored with Consulate if they considered filing a request to the SA government to re-open the process to the Zimbabweans who did not get an opportunity to apply such as unaccompanied minors and farm workers. However, already the SA authorities have made it clear that such consideration is likely to be made upon presentation of concrete information why the concerned persons did not apply though this does not guarantee that the application will be considered.

The consulate also expressed concern that certain sectors of CSOs have made unfavourable statements to the media about the consulate's level of responsiveness without seeking to engage it directly. CoRMSA requested the consulate to raise its concerns with the SA government regarding the recent xenophobic attacks against its nationals especially in Polokwane, Gauteng, Western and Eastern Cape. The Vice Consul asked what NGOs were doing to assist convicted non-nationals appeal their sentences and requested a directory of legal services providers. CoRMSA undertook to provide this. The meeting closed with CoRMSA and the consulate agreeing to maintain ongoing dialogue on issues of concern.

New Consulate Office Address Details:

13A Boeing Road West, Berdfordview, (opposite Eastgate Mall) Johannesburg, South Africa. Tel: 011 615 0290 or 011 615 1117 or 011 615 1561. Fax: 011 615 1016. **For more details on this article please contact Wozani: wozani@cornsa.org.za or Mpilo: mpilo@cornsa.org.za**

Situational Report on Musina:

Two CoRMSA staff members conducted a three day visit to Musina on 27 – 29 June 2011 to gather operational concerns of the Inter-Agency Refugee Network. Meetings were held with the Musina Legal Advice Office (MLAO), Lawyers for Human Rights (LHR), Medics Sans Frontieres (MSF), Save the Children UK (STC), the United Nations High Commission for Refugees (UNHCR) and the International Organization for Migration (IOM). CoRMSA also attended the bi-monthly Network meeting held on the 28th of June 2011. The Inter-Agency Network has solidified over the past three years and CoRMSA's active coordination function has played a critical role in this regard. To ensure continued value addition to the Network focus is being shifted to ensuring strengthening the impact of its work at a provincial and national level. Taking up its issues of concern to Parliament, Chapter Nine institutions and various line ministries would be one way of achieving this. Consequently, it was unanimously agreed that CoRMSA meets with the Network on a quarterly basis, and whenever an emergency situation requires broader coordination effort.

Issues discussed included the general operating environment for organizations catering for the needs of migrants; access to health care and the creation of the Migrants Health Forum (MHF) for the Limpopo province; recent trends in arrests, conditions of detention and deportations; the prevalence of sexual and gender based violence (SGBV) and human trafficking; migrant farm workers' rights; the imminent opening of the new detention facility and monitoring the closure of the SMG and the Zimbabwe Dispensation Project (ZDP).

For the purposes of this edition of the newsletter, we highlight (i) the state of the Shelters accommodating unaccompanied minors; (ii) resumption of deportations of undocumented Zimbabweans, (iii) attacks on non-nationals, and iv) the fingerprinting of failed asylum seekers.

I. Unaccompanied Minor Children in Shelters

Stakeholders monitoring activities at the Shelters consider the current state of affairs a travesty needing the Department of Social Development (DoSD) urgent intervention. Pressure needs to be exerted on the Musina Municipality to build government-run Shelters which cater for the needs of migrant children, as the funds are said to be available for this. Save the Children UK informed us that presently there are about nine girls and at least eighty boys at the two Roman Catholic church-run Shelters.

Areas of concern that were raised included: The fact that there is no shelter space designated for girl children, forcing them to share facilities with women at the women's shelter. A lot of children are living in the streets, having resisted efforts to place them in shelters. Shelters have been experiencing operational problems lately. While funds are available, the DSD has faced some difficulties with the church

management and this has led to lengthy delays in disbursing funds. In the last three months there has been minimal security for the children as security personnel have not been paid for months and often do not turn up for work. There is minimal supervision as most social workers have stopped coming to work; their salaries have not been paid for the past three months. Children can sometimes be seen hanging off the Shelter's walls. There is a lack of clear written government policy or Standard Operating Procedures (SOPs) for dealing with migrant children.

II. Resumption of Deportations

CoRMSA learnt that in early June 2011 the Department of Home Affairs (DHA) informed the IOM that orders to start deportations were issued by the senior management. Subsequently, 19 Zimbabweans including over a dozen unaccompanied minors were picked up in Tzaneen (Limpopo province) for deportation. Out of 14 children, 10 of them were already at the Shelter and four were children living on the street. This was despite a court order being required before a child can be deported. The Zimbabwean government said that it was not ready to receive the deportees and they were taken back to Tzaneen.

From the discussions, it became evident that should deportation orders be confirmed, contingency measures for assisting deported persons who will cross back into South Africa need to be operationalised. Asylum seekers with valid documents might be picked up and thus CSOs' legal capacity to assist large volumes of detainees need to be ascertained. There is a need to start identifying groups of people who may need protection and take this up with the DHA so that it can develop a policy on how it would deal with this. These groups would include SGBV victims, pregnant women and persons living with HIV/AIDS on anti-retroviral treatment.

III. Attacks on Non-Nationals in Polokwane

Following media reports that thousands of migrants had been displaced at Setshego in Polokwane by attacks targeting primarily Zimbabweans, a visit to the area was organised by LHR, MLAO, IOM, MSF and UNHCR. MSF provided medical kits. The Inter-Agency delegation was accompanied to the police station by the District Administrator and the team met with the provincial disaster management team.

Twenty eight people and several families were found at the police station. Efforts to trace others affected by the violence were futile as they were said to have disappeared into the bushes. Victims expressed a willingness to testify in court and to return to the communities voluntarily only after getting state assurances that their safety will be guaranteed.

Concern was raised by some displaced persons that they had lost their documentation in the fire destruction and had no resources to travel to the RROs to replace them. UNHCR undertook to assist the victims get their permits and asylum papers re-issued by the DHA and get them delivered to them in Polokwane.

Twelve people have been arrested in connection with the case, including a 29 year old Councillor and they have been charged with murder, assault, public violence and arson. They have appeared in court and are out on bail. It was noted by stakeholders

that following the criminal charges, the local press has been ‘building up’ the image of the Councillor as that of an honourable and responsible leader, possibly to cast doubt on the case against her.

IV. Fingerprinting of ‘failed’ asylum seekers

CoRMSA has noted with increasing concern those nationals from Somalia, Eritrea, Ethiopia and Bangladesh who arrive at the border in fairly large groups denied entry into South Africa to claim asylum. They are fingerprinted and handed over to the Zimbabwean authorities, where they are offered asylum status. Upon acceptance they are taken to a refugee camp in Zimbabwe.

This practice appears to be an extension of the recently adopted ‘first safe country’ principle. However, the legal basis for fingerprinting, asylum seekers who are denied access to asylum procedures do not appear to be established at law in South Africa. The Parliament approved amendments to the Immigration and Refugee Acts are still awaiting Presidential assent. There are severe adverse human rights implications for asylum seekers in that, while this practice could be motivated by security concerns, it is likely to prejudice persons concerned should they elect to seek asylum elsewhere or in South Africa in the future. It appears that there is room for law-based partners to interrogate this practice further. ***For more details on this article please contact Hilton: capacity@cornsa.org.za or Wozani: wozani@cornsa.org.za.***

2011 World Refugee Day Commemorations in Soweto

The Forced Migration Working Group organised the World Refugee Day commemorations in Soweto. This Working Group is made of organisations working in the refugee and migrant sector such as UNHCR, Jesuit Refugee Service (JRS), CoRMSA, Coordinating Body of Refugee Communities (CBRC), South African Women Institute for Migration Affairs (SAWIMA), Centre for the Study of Violence and Reconciliation (CSVR), Sonke Gender Justice Network, Black Sash, Catholic Justice & Peace, South African Women against Men Abuse (SAWAMA), the Xaveri Movement among many others. The World Refugee Day commemorations were pioneered by JRS in collaboration with the above-mentioned organisations. JRS also organized a similar event in Pretoria on 25 June 2011.

“Building Communities of Hope” was the theme under which this year’s World Refugee Day was commemorated. This year’s theme intends to pave a way of life for all who live in South Africa. It recognizes the plight of the world’s 15 million refugees with more than three-quarters of them found in the developing world. UNHCR’s campaign “One Refugee Without Hope is Too Many” resonated throughout the speech of their Country Representative, Mr. Kimbimbi, emphasizing on the need to help refugees to find a place they can call home.

The Deputy Minister of Home Affairs, Ms Fatima Chohan, was among the main speakers at the event. In her address, she stated that the World Refugee Day basically honours the courage and determination of those who are forced to flee their countries due to persecution or events that affect the public order.

The Deputy Minister noted that South Africa is not only a signatory to the Refugee Convention of 1951 and its 1967 Protocol but also a member of the Executive Committee of UNHCR and have participated internationally in many UNHCR activities such as, *inter alia*, through the deployment of a full time Home Affairs representative in Geneva.

However, she expressed her concern over the number of forcibly displaced persons that has grown to 44 million worldwide with more than 26 million, including 15.2 million refugees, stateless people and internally displaced persons, being directly assisted by UNHCR.

South Africa has been bearing a heavy backlog of asylum applications and this, as it was noted, is partly because the asylum management process is lacking in many respects. Amendments to the Refugee Act recently promulgated in parliament are intended to streamline the processes of application for asylum by making it more efficient and credible for those who seek South Africa's protection. Home Affairs believes that through the amendments to the Refugees and Immigration Acts, entry into South Africa for those with legitimate cause and proper documentation will have their hope, humanity and dignity restored.

From integration to containment – worrying trends for refugees in South Africa

When Parliament adopted the Refugees Act just more than a decade ago, it was hailed by many as a progressive and modern approach to protect people fleeing persecution and civil strife. South Africa broke from the traditional African approach of accommodating refugees in large rural-based camps. Parliament has also thus far resisted the European and Australian examples of detaining asylum seekers for extended periods in reception centres.

Instead, the Act is based on the principle of local integration and voluntary return. It allows refugees to settle and integrate into South African society and extends the constitutional rights and freedoms, such as freedom of movement and access to health and social services, to refugees and asylum seekers. The logic of the local integration approach is to enable refugees to live meaningful lives while in exile and, further, to make real contributions to the host country until it is safe for them to return home. Once returned, the local integration approach should also benefit the country of origin in the sense that the returnees would have accrued skills, experience and resources to be able to play a meaningful role in a post conflict society. South Africa also benefits from the local integration policy, since refugees can be productive participants in the economy (if given the opportunity), and not simply charges of the state; as in the camps or detention centres approach.

As we celebrate World Refugee Day we need to ask ourselves if we have succeeded in achieving the ideal of local integration as prescribed in the Refugees Act – that is to protect refugees and to allow them to successfully integrate into South African society. Most practitioners in the field would agree that South Africa is failing dismally in this regard. The reasons behind the exclusion of refugees from the broader South

African society have been well documented. Firstly, the process of determining refugee status continues to be enormously challenging. For an asylum seeker, all aspects of integrating into South African society (access to banking, employment, housing, finding a school for your child, finding healthcare) essentially flow from the granting of valid documentation.

Despite the hundreds of millions of rands spent on improving the system for asylum seekers at Home Affairs, most asylum applications have not been processed; leaving asylum seekers without that essential first requirement for local integration. In the face of this backlog of applications, the Crown Mines Refugee Office has, in fact, closed without any alternative facility being provided in the Johannesburg area. Asylum seekers in this area have to travel to Pretoria, with great effort and expense, to offices that are not coping with their current load of applications.

South Africa is and is likely to continue to be host to a consistent and fairly large proportion of asylum seekers, due in part to its economy, political stability and, simply, geographical location. The political and economic crisis in Zimbabwe has, of course, displaced many people from their homes; with many of them fleeing to South Africa in search of safety and protection. Zimbabwean migrants to South Africa generally come for a range of reasons; the search for safety and protection not, of course, excluding the search for livelihoods and a more secure economic life. The announcement by Cabinet in 2010 to give special recognition to Zimbabweans was a laudable attempt to protect Zimbabweans, not all of whom fit within the strict definition of a refugee. In practice, however, only three months was given for Zimbabweans to register, which was hopelessly inadequate, given the realities of how long it took applicants to obtain the required documentation in their home country. The effect of this is that only a minority of Zimbabweans in South Africa have been able to take advantage of this special dispensation. The Minister has announced that in August 2011, the Department will lift the moratorium on the deportation of Zimbabweans – despite the fact that many, through no fault of their own, remain undocumented and thus at risk of being returned to a country that is increasingly marred by political violence. ***For more details on this article please contact Kaajal: kaajal@lhr.org.za***

Children who cross borders: Forced to Move between the Department of Home Affairs and the Department of Social Development.

Increasingly South Africa is receiving children migrating from countries as far as Somalia, DRC, Burundi and Zimbabwe who cross borders without parents, relatives or care-givers. Commonly referred to as unaccompanied minors, these children leave their countries of origin for a number of reasons, some fleeing war and conflict, forcible recruitment as child soldiers, forced marriage, harmful cultural practices and economic and social challenges. They embark on long risky journeys by long-distance truck, bus, or on foot in a desperate attempt to arrive at the country where they believe they will find peace and a better life.

South Africa's progressive Constitution and the Children's Act protect unaccompanied minors to the same extent as South African children. However, due to challenges at implementation level of child protection mechanisms, foreign

unaccompanied minors tend to fall between cracks of mainstream planning for vulnerable children in both civil society and government circles.

Two fundamental measures that are necessary for the adequate protection of foreign unaccompanied minors within South African borders are: access to legal documentation; and entry into the country's care and protection system. Foreign unaccompanied minors need an immigration or refugee permit to legalise their stay in the country and to protect them against arrest and deportation. This permit also enables them to access basic services such as education, healthcare and social assistance. Furthermore, being alone in the country, they are presumed to be in need of care and protection and need structured institutional protection equal to that given to any vulnerable child in need of care and protection in the country.

An inter-departmental framework is currently in place requiring unaccompanied foreign minors, when encountered, to be referred to a social worker from the Department of Social Development for assistance with undergoing Children's Court processes and obtaining a Children's Court order setting out the care arrangements for the child. Despite this arrangement, many asylum seeking children are not assisted. The Department of Home Affairs refuses to issue an asylum seeker permit to children who cannot produce such Children's Court Order and will routinely turn children away.

An absence of uniformity or consistency in the way that this process is currently being implemented across the country has created confusion among government officials who have decided to rather do nothing about the situation of any foreign children who may seek assistance at their offices. In some centres like Johannesburg the process works and with a certain amount of cajoling a child will be assisted in a Children's Court process and eventually be issued with an asylum permit. In centres like Pretoria the process has never worked and officials are resistant to any kind of pressure to change this state of affairs.

The two government departments involved tend not to interact with one another in rendering assistance to the children with the result that it is very difficult for foreign children to get documented and enter the care and protection system. This has resulted in cases where children are forced to live on the streets or in inhumane conditions and are unable to attend school or feed themselves. This leaves them in a highly vulnerable situation directly as a result of the state's inability to provide the necessary care and assistance.

Social workers are hesitant to commence Children's Court processes for unaccompanied foreign minors as they cannot finalise them without an identity document for the child. Yet at the same time, a child cannot acquire an identity document until a Children's Court process has been finalised and a court order granted. Unaccompanied foreign minors, who are over the age of 15, end up being sent from one official to another between the two departments, each official shifting responsibility to the next. In the mean time, the children consistently live in perpetual fear of arrest by the police for being unable to produce a document proving that they are legally in the country. Furthermore they are excluded from access to education as most public schools refuse to enrol undocumented children. When they fall ill, public hospitals refuse to treat them because they have no identification documents.

There is clearly a problem in the system of protection offered to foreign unaccompanied minors as it does not offer any protection and instead renders them more vulnerable. Foreign unaccompanied children are a voiceless, disenfranchised group who need greater intervention from civil society actors and policy makers in order for their plight to be adequately addressed by government officials who should assume this responsibility for these children.

Legal Battle begins to strip Rwandan General and Suspected War Criminal of Refugee Status

The Southern African Litigation Centre (SALC) together with the Consortium for Refugees and Migrants in South Africa (CoRMSA) have launched legal action seeking the cancellation of former Rwandan general and suspected war criminal Faustin Kayumbe Nyamwasa's refugee status in South Africa arguing that the decision violates South African and international law and increases the likelihood of South Africa being used as a safe haven by perpetrators of mass crimes.

"The decision to grant Nyamwasa refugee status is unlawful because South Africa's Refugees Act explicitly states that those accused of crimes against peace, war crimes or crimes against humanity are specifically excluded from receiving protection as refugees," said Kaajal Ramjathan-Keogh, Chairperson of CoRMSA, which brought the case along with SALC. Refugee status was granted to Nyamwasa – once a close ally and friend of Rwandan President Paul Kagame and formerly a senior figure in both the Rwandan military and diplomatic corps – on an urgent basis by the Department of Home Affairs following an attempt to assassinate him in Johannesburg in June 2010 after he had fled from Rwanda. It has been alleged that the assassination attempt was directed from highest levels of the Rwandan leadership and has resulted in a cooling of diplomatic relations between South Africa and Rwanda.

Considering that he has recently been convicted *in absentia* by a Rwandan court of having helped to orchestrate a series of terrorist attacks in Rwanda and where he is viewed as a political threat, Nyamwasa would likely face persecution were he to be returned home, as Rwanda has requested South African authorities to do. South Africa is therefore well within its rights, and indeed required under international law, not to surrender him to Rwanda.

Several high-level United Nations reports also link Nyamwasa to the possible commission of war crimes making him ineligible for refugee status in South Africa. "Asylum and refugee law is designed to protect individuals who are facing persecution and who do not have the protection of their country of origin, it is certainly not intended to protect people who are guilty of committing human rights violations," said Alan Wallis, SALC's International Justice Project lawyer.

In July 2010, upon learning of the decision to grant Nyamwasa refugee status, CoRMSA and SALC submitted a detailed legal briefing to the South African authorities highlighting his ineligibility and outlining the legal implications of the decision. It called on the government to withdraw Nyamwasa's refugee status in

accordance with the Refugees Act and South Africa's obligations under international law. When there was no response, the two human rights organisations decided to take the matter to court.

Nyamwasa's presence in South Africa also raises concerns about South Africa's obligation under international criminal law to combat impunity. "South Africa's porous borders and immigration procedures are conducive to South Africa becoming a safe haven for those attempting to evade justice for serious international crimes," said Nicole Fritz, Director of SALC. "Unquestionably, South Africa faces a delicate diplomatic situation, having to balance competing extradition requests and not wanting to give offence to states with which it maintains friendly relations," said Fritz. "However, South Africa can't resolve this delicate situation by breaking its own laws and the laws of the international community – as this would send a signal to war criminals the world over that they will find a safe haven here. Indeed, a haven where they might be actively protected as refugees." ***For more details on this article please contact Kaajal: kaajal@lhr.org.za***

Nelson Mandela Metropolitan University (NMMU) Refugee Rights Centre Monitors the Refugee Reception Office in Port Elizabeth.

A team of five attorneys from the NMMU have been engaged in extensive monitoring at the Refugee Reception Office in Port Elizabeth.

The Reception Office has indeed shown progress regarding the assistance of newcomers (especially Ethiopians) and the issuing of permits to the applicants. NMMU-Refugee Rights Centre has stepped in to assist Ethiopian newcomers, and by working closely with certain DHA officials, the Centre managed to have a 'list system' in place. All newcomers from Ethiopia are therefore advised to approach the NMMU-Refugee Rights Centre office to have their names on a list. They will then receive a letter from the office on which their name will be mentioned and the date on which they have to report to the Reception Office would be advised. This will help them to easily secure a Section 22.

Although there are still loopholes in this process more people are being assisted at the Refugee Reception Office and this has been hailed by many Ethiopian applicants as a protection of their human rights.

Two Tanzanian ladies are being assisted with their bail applications. These women were arrested in October last year. They are currently still in detention. Upon investigation, it was discovered that their applications have not been finalized and that the RRO would renew their section 22 permits. The matter is set for trial on 22 July 2011 and an urgent bail application will soon be brought to the Magistrates' Court.

On 6 and 7 July 2011, NMMU-Refugee Rights Centre will host a workshop targeting senior Police Officers. The purpose of this workshop will be to inform the Police about Refugee and Immigration Law in South Africa, and how foreign nationals with or without proper documentation should be treated.

The Centre also continues to receive a mounting number of requests for social assistance especially from Somalis. It is hoped that a relevant social security service provider will be identified to fill this gap.

Finally, it is worth mentioning that the Centre was also instrumental in organising relief for displaced Somali families during the recent attacks in Port Elizabeth. Support came in from Gift of the Givers and Dorcas Aid. The Centre is therefore extending a word of gratitude to all those organizations that assisted and provided aid to the displaced. ***For more details on this article please contact Sarine: Sarine.Broderick@nmmu.ac.za***

Launch of the South African Local Government Association Report on “Governing Migration & Urbanisation in South African Municipalities”

The African Centre for Migration and Society (ACMS) in partnership with South African Local Government Association (SALGA) launched the **“Governing Migration & Urbanisation in South African Municipalities: Developing Approaches to Counter Poverty and Social Fragmentation”** report in George Local Municipality on the 22nd of June 2011. The launch was successful with attendance of approximately 100 local government practitioners. It was a full day event starting with presentations on the findings of the report from Dr. Aurelia Segatti and Jean Pierre of ACMS, followed by reviews from panelists from the City of Johannesburg, Petro SA, HSRC, Central Methodist Mission and Johannesburg Advisory Panel. World Café discussions were held where the practitioners raised a number of issues on their role in managing human mobility.

The participants in the World Café discussions agreed that local government’s data collection systems must be reviewed to ensure effective representation of the population dynamics present. They also highlighted the necessity of lobbying National Treasury around Local Government Equity Share and building capacity within municipalities to harness planning more strongly to population dynamics.

ACMS looks forward to working with all stakeholders in advancing local government’s role in responding to human mobility. The SALGA report will be launched in Gauteng in partnership with SALGA on the 11th of August 2011. The launch was supported by the Presidency-European Union-funded Programme to Support Pro-poor Policy Development in South Africa (PSPPD) and the ‘Migrating Out of Poverty’ RPC. The report, policy brief and case studies can be accessed online at www.migration.org.za. ***For more details on this article please contact Sharon Mina Olago: sharon.olago@wits.ac.za***

The Coordinating Body of Refugee Communities (CBRC) embarks on Refugee and Migrant Rights Campaigns.

CBRC hosted more than 300 refugees and other migrants who attended a refugee and migrant rights campaign. Speakers included a representative from the Independent Complaints directorate, an expert in Peace and Conflicts resolution, an

academic from the Wits Law Faculty and a senior researcher from SERI. Throughout the campaign, lack of knowledge of refugee and migrant laws was noted among participants. It is worth mentioning that this lack of knowledge is also affecting refugees and migrants' access to many services in the country.

As a result of the campaign, CBRC has been receiving parents whose children could not secure registration in schools until May this year. Four (4) children were successfully placed in primary schools. Other parents were assisted to attain school fees exemptions. However, CBRC condemns some school managers that oblige parents to sign school fees binding forms that disqualify them from applying for exemptions at a later stage.

CBRC also condemns poor service delivery at the Department of Home Affairs as this has rendered many refugees and migrants vulnerable. There is a case of a refugee woman who has been battling to join her husband's file as part of a family reunification process but in vain, despite numerous engagements with the Department. This has made it difficult, if not impossible, for her to enjoy proper protection in the country including basic services such as health care, and others due to lack of a document.

CBRC is finally expressing its dismay over an apparent reluctance by service providers to offer available services to the beneficiaries. The family of a deceased Burundian national who was a Muslim has not managed to receive appropriate burial support from relevant organizations. This resulted in the family seeking assistance from friends and other Muslims for the necessary financial arrangements for the burial. ***For more details on this article please contact Jacques: jackikonga@yahoo.fr or reguee@cbrc.org.za***

A Brief Overview of the Refugee Children's Project work in June

In terms of education, the Refugee Children's Project (RCP) went on to finalize the distribution of uniforms and other education materials to children on its waiting list. RCP has registered a big number of applicants who need direct support. This has prompted RCP to distribute uniforms and other school items per groups. The first group received uniforms in June and the second group will be served shortly.

In the same month, RCP attended to 5 cases of children who have not been attending school. RCP learnt that some of these children were being rejected by schools because they do not have birth certificates. After engaging schools in their areas, RCP managed to secure enrolment for these children. School fee exemptions cases and a prompt intervention for a child who was about to be taken out of school were among other things that RCP successfully achieved in the course of this month.

RCP will be conducting computer classes for school children. RCP's initial plan was to secure a place where all activities would be conducted and preferably in areas where clients can easily access the training centre. While this has taken time to

materialize, RCP is, on the other hand, keen and under some pressure to implement this project as soon as possible. It is for this reason that RCP has decided to launch the project when schools reopen. The computer room that is available will only accommodate 20 children per session. The purpose of this training is to equip children at high school level with computer skills that will essentially complement their other fields of study.

Vocational Training Centre for adults:

RCP Training Centre was closed for several months. This was caused by a delay in finding a suitable place to conduct the activities. Trainings are however due to resume in two weeks time with prime beneficiaries being refugee and migrant women. Skills to be offered at the Centre include tailoring, beadwork and business management. The purpose for these trainings is to equip women, as primary caregivers, with relevant skills that would help them to become self-reliant. ***For more details on this article please contact Germain: germainm@rcpsa.org.za***

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