



CoRMSA NEWSLETTER

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As we come to the end of a turbulent year, let us reflect on what has been an extremely challenging year for us all. We witnessed the widespread violent xenophobic attacks on foreign nationals from January which then culminated in the now infamous May attacks. These not only shook South Africa but had a worldwide effect, with condemnation being received from different corners of the globe. It is however, sad to note that not much has changed after these attacks. CoRMSA continues to receive reports and threats of attacks of foreign nationals from different corners of the country. As we approach 2009, let us jointly develop clear strategies to address xenophobia and mob violence and ensure that the rights of all within the country are protected as provided for by the Constitution.

CoRMSA Requests SAHRC Holds Inquiry into Xenophobic Violence

CoRMSA has formally approached the South African Human Rights Commission (SAHRC) to convene an inquiry by the Chapter 9 institutions into the xenophobic attacks and the responses to them. In a letter sent by CoRMSA Chairperson Dr Loren Landau, CoRMSA raised concern about the widespread impunity of those responsible for the violence and warned that the threat of violence still remained. Recent threats of mob violence targeting foreign nationals have been received in Atteridgeville and Tsakane Extension 10 in Gauteng and xenophobic violence has also erupted in the Eastern Cape.

With some government department apparently regarding the problem of xenophobic attacks as resolved, it is necessary to thoroughly examine the root causes of the violence in order to ensure that as much as possible is done to address these. Research due for release in January has raised serious concerns about the role of local leaders in communities, many of whom appeared to play an active role in fueling the violence.

For these reasons, a thorough and high-level inquiry into the violence is necessary and South Africa's Chapter 9 institutions are best placed to perform this role. CoRMSA has requested a response from the SAHRC by 15th January 2009.

Humanitarian Crisis in Musina and Surrounds

The recent cholera outbreak has thrust the humanitarian crisis in Musina and the surrounding areas into the spotlight. To those working in the area, the crisis did not come as a major surprise as one organisation assisting migrants with access to health care have long raised concerns about the dangers of cholera and shigella.

During CoRMSA's last visit to Musina in November, the first rains of the season started to fall leaving the estimated 1 000 people sleeping in the Show grounds area outside the mobile Refugee Reception Office without shelter. On the first night of heavy rain, most sought shelter in the stands of the stadium but most were left without adequate shelter. Without any official intervention being made, the local NGOs and churches rallied to provide some shelter to the most vulnerable, including the women with very young children who were accommodated in church halls.

Currently the local refugee and migrant service providers network is engaging with the municipality and officials from the Limpopo Provincial Government to find a way to deal with the cholera crisis and develop ways to improve the assistance provided to the migrants and refugees in the area. As part of this engagement the Joint Operations Committee of the Musina Municipality issued a series of recommendations to national government including placing a moratorium on the deportation of Zimbabwean nationals, providing a temporary exemption permit for Zimbabwean nationals in terms of Section 31 (2)(b) of the Immigration Act and relaxing visa requirements for Zimbabwean nationals. The Vhembe District which surrounds Musina has been declared a disaster area thus allowing for the utilization of additional resources to address the cholera outbreak.

CoRMSA makes special recognition of the efforts of the local refugee and migrant service providers network that have performed admirably in this time of crisis.

Addressing Immigration Raids in Makhado

Following a second raid by DHA and SAPS officials on Tuesday 8th October on the offices of Jesuit Refugee Service (JRS) in Makhado, members of the Limpopo Refugee and Migrant Service Providers network met with officials from the local, provincial and national office of DHA and local SAPS officials to resolve the dispute. The meeting provided the opportunity for all parties to clarify their mandates as well as their understanding of the challenges posed by increased migration to the town. It was agreed that no further raids would take place on the offices of JRS and that members of the network would interact regularly with the head of Immigration in DHA's Limpopo office to address any concerns. Special thanks go to Mr Modiri Matthews, DHA's Chief Director of the Immigration Inspectorate for his role in assisting to resolve this dispute.

Comment on Gauteng Camp Closures

Despite a Constitutional Court order stating explicitly that all services must continue in the Gauteng camps until such time as an alternative interim relief order is issued by the

Court, the Gauteng Provincial Government proceeded to illegally dismantle the Gauteng camps. Notices were circulated in some camps informing residents that the sites would be closed and tents were dismantled early on the 30th September. Some camp managers and Provincial Government officials tried to suggest that people were leaving voluntarily but the conditions of coercion and duress in which people were leaving were clear.

The closure of these camps marked the end of a shameful chapter in South Africa's history made all the more shameful by the handling of the reintegration by the Gauteng Provincial Government and especially the Gauteng Department of Local Government. This sets a dangerous precedent for the handling of future disasters in South Africa.

In closing the camps unilaterally, the Gauteng Provincial Government not only contravened the Constitutional Court order but also an undertaking made in the Constitutional Court on 16th September not to evict camp residents without first obtaining an eviction order. No such eviction orders were obtained prior to the 30th September.

Withdrawal of Constitutional Court Case

In light of the closure of the Gauteng camps, representatives of the CoRMSA Executive Committee met with the Wits Law Clinic to discuss the possible way forward. The case was primarily about ensuring that a comprehensive reintegration strategy was put in place prior to the camp closures and that this would serve as an important precedent in protecting all in South Africa should any future disaster strike. However, with the camps already closed before the next Con Court hearing, it was concluded that the case be withdrawn.

UNHCR Investigation

Following the xenophobic violence in May and the resulting humanitarian crisis, serious concerns about the conduct of the South African-based UNHCR office were raised primarily by Cape Town-based civil society groups in the form of an official complaint to UNHCR Head Office in Geneva. The complaint resulted in UNHCR Geneva sending an investigation team comprising of representatives of the UNHCR, UNOCHR and the Canadian Red Cross to unpack the allegations. The investigating team spent two weeks in South Africa meeting with organisations in Cape Town, Durban and Gauteng and returned to Geneva from where they will issue a public report on their findings.

Legal Resources Centre wins Permit Renewal Case

The Legal Resources Centre (LRC) in Cape Town launched urgent court proceedings against the DHA as a result of a DHA decision not to prioritise the renewal of asylum seekers' Section 22 permits. The decision was believed to have been made by the Deputy Director General with the intention of increasing the number of applications that can be processed each day instead of concentrating on the renewal of permits. As a result, many asylum seekers who have done everything to comply with the law in South

Africa and have approached the Refugee Reception Offices around the country to renew their permits were not being assisted. In Gauteng, many were being referred to the Refugee Ministries Centre monitors who were being asked to keep a list of those whose permits were not renewed so that DHA could try to assist those people later in the week.

The non-renewal of permits violated a number of people's rights and resulted in people who were legally in the country being vulnerable to arrest and deportation. Those who had opened bank accounts ran the risk of losing access to their savings and those in employment were likely to be dismissed.

The Cape Town High Court ruled that the process of not renewing Section 22 permits was unlawful. It ordered the DHA with immediate effect to renew all Section 22 permits. This ruling was not specifically limited to Cape Town and therefore it applies nationally. The DHA Refugee Reception Offices across the country are therefore required to renew all Section 22 permits immediately.

While some improvements have been noted in this regard, CoRMSA still receives reports of cases where asylum seekers are still not getting extensions on their permits. This matter will be closely monitored and followed up on in 2009.

Lawyers for Human Rights Secures the Release of R28 Group

On 21st October, Lawyers for Human Rights (LHR) secured the release of 37 foreign nationals from the Lindela Detention Facility after DHA agreed to settle the case. The group had been arrested after refusing to register for the temporary exemption permits whilst in the Rifle Range camp and had been held at Lindela since then. In the settlement agreement, DHA was required to release the group of 37 and re-issue them with their refugee or asylum seeker permits. More information is available at <http://www.lhr.org.za/news/2008/lhr-secures-release-37-refugees-and-asylum-seekers> .

Media Monitoring Project and CoRMSA Secure Removal of 'Alien' from Daily Sun

In May, the Media Monitoring Project (MMP) and CoRMSA (supported by Lawyers for Human Rights, Jesuit Refugee Service and ARESTA) launched a complaint with the Press Ombudsman against the Daily Sun over its use of the term 'alien' as well as its perceived negative representation of non-South Africans. Press Ombudsman Joe Thlooe initially dismissed the complaint in a ruling where he focused only on the aspect dealing with the word 'alien'. He felt that this term was not problematic.

The matter was then taken on appeal to the Press Council on 22nd October 2008 where Advocate Steven Budlender represented the MMP and CoRMSA and Advocate Gilbert Marcus represented the Daily Sun. After a lengthy hearing, the matter was ultimately settled between the parties with the Daily Sun agreeing to not use the word 'alien' to refer to non-South Africans. The Daily Sun also recognised that it was bound by the provisions of the Press Code which require, amongst other provisions, for it to provide coverage in a manner that is fair and impartial. A note to this effect was published on

the front page of the Daily Sun on 27th October 2008. Congratulations and thanks go to the MMP team.

Mpumalanga Advice Offices Receive Training on Refugee and Migrant Rights

CoRMSA provided training on the Refugees Act, Immigration Act and xenophobia for Mpumalanga Paralegal Advice Offices in August. This training, funded by the Multi-Agency Grants Initiative (MAGI), will ensure some degree of paralegal services are available to non-South Africans in a province where no CoRMSA members currently operate. It was crucial for CoRMSA to provide such training in light of the high numbers of non-nationals who visit these offices. This will ensure that those visiting the various Advice Offices are advised of their rights in the country and have access to some form of recourse.

Detention Monitoring Training Provided by APT and SAHRC

As part of efforts to lobby the South African government to ratify the Optional Protocol to the Convention Against Torture, the SAHRC arranged a two day training course by the Geneva-based group the Association for the Prevention of Torture. The training was aimed at providing participants with the skills to monitor sites of detention. CoRMSA was invited to send members who may be in a position to conduct monitoring at Lindela Detention Facility. In addition, CoRMSA was able to arrange for members from Musina to attend so as to develop a mechanism to monitor the detention facility in Musina. In October, LHR raised concerns about torture in the Musina facility (see <http://www.lhr.org.za/news/2008/police-officers-torture-and-assault-detainees-musina-with-impunity>). Further discussions will continue in 2009 to develop effective mechanisms to monitor both sites.

New CoRMSA Members

At the final CoRMSA members meeting for 2008 the application for CoRMSA membership by the Black Sash was approved. With the Black Sash's long history of defending human rights in South Africa and its established network across the country, Black Sash will be valuable members. Applications by Refugee Children's Project and Refugee Ministries Centre were also approved at a previous CoRMSA meeting in July. Note was made of their valuable work in the sector and CoRMSA looks forward to working closely with its new members in 2009.

Detention Contingency Plan

As a contingency plan whilst LHR's Johannesburg office is closed over the festive period, LHR have arranged for Tobias Hlambelo to be on standby in case of any detention emergency. For any detention emergency cases over the festive season, please contact him on 079 636 5686.

New CoRMSA Contact Details

CoRMSA's offices have moved to the Braamfontein Centre in central Johannesburg. The new telephone numbers are: Sicel'mpilo (direct) 011 403 7562, Duncan (direct) 011 403 7561 and fax 011 403 7559.

Appreciation

CoRMSA would like to thank all the organisations and individuals that contributed during an immensely challenging year. Your efforts have been enormously appreciated. We wish you all a wonderful and safe festive season and hope that we all return well rested and ready to face the new challenges in 2009.