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## CoRMSA NEWSLETTER

Edition 9 – 8<sup>th</sup> April 2008

### **Xenophobic Attacks Plague the Country**

Including reporting by Ahmed Dawlo of the Somali Association of South Africa

A spate of xenophobic community attacks on foreign nationals in different provinces has rocked the country in early 2008. In the first three months of the year, community attacks characterised by mob violence have taken place on foreign nationals in Gauteng, North West, Free State, the Eastern Cape and the Western Cape resulting in the loss of many lives and destruction of many people's property. Police and government responses have varied but there is a general agreement between government and civil society that far more needs to be done to firstly, prevent such attacks from taking place and secondly, contain the violence and limit the damage caused when such conflicts do break out. CoRMSA is a member of a working group of nationally-based civil society organisations aiming to co-ordinate the assistance civil society can provide to complement assistance from government on a national level. A similar meeting is scheduled to take place with government representatives later this month. Meetings have also been held in Cape Town and the North West to address these issues with locally-based civil society groups and government representatives.

One of the worst attacks took place from the 18<sup>th</sup> March in Atteridgeville, Gauteng. At least seven lives were lost in a series of attacks that took place over a week. The deceased included Zimbabwean, Pakistani and Somali nationals as well as a South Africa who was believed to have been mistaken for a foreign national. Around 150 shacks and shops were burnt down, destroyed or vandalized. By 19<sup>th</sup> March there were close to 500 people seeking refuge at Mangena Primary School located close to Atteridgeville police station.

The police believe the attacks were instigated by a group of self-described "immigrant hunters" in one section of the township but soon spread to the sprawling settlements of Brazzaville, Jeffsville, Phomolong and Siyahlala in Atteridgeville, where a crowd of thousands of people attacked foreign nationals at random. Those affected by the violence include Zimbabweans, Mozambicans, Malawians, Somalis and Pakistanis.

Police handling of the attacks has been strongly criticized as it appears that backup was not requested from the stations of Laudium and Pretoria Central both located less than 10km from Atteridgeville. As the attacks broke out, police appeared unable to contain the violence and do not appear to have sought assistance from the Public Order

Policing Unit. To date, there have 12 arrests for the murder of two Zimbabweans as well as on charges of public violence.

Government's response has been positive and a high profile delegation headed by Minister of Home Affairs Nosiviwe Mapisa-Nqakula and Tshwane Mayor Dr Gwen Ramokgopa attended various heated community meetings in the township where local communities blamed foreign nationals for spiraling crime, stealing jobs and the growing unemployment. The immigrant community was also blamed for the petrol hikes and taking South African women.

The Minister condemned the violence in the strongest terms. The Minister also stressed the fact that South Africa is under no circumstance going to set up refugee camps by saying that her government was hailed internationally for its refugee policy that provides refugees and asylum seekers with the right to of freedom of movement and to contribute to the economy.

Dr Ramokgopa outlined the policies in place to speed up the service delivery in the disgruntled communities. She blamed communication breakdown between municipalities and local communities that perhaps contributed to the violent behaviour of the people. She criticized the culprits of these attacks and vowed they will be brought to book.

A number of proposals were presented by government to deal with the crisis. These include public meetings, a mobile caravan to provide information, hear complaints and suggestions, and a door-to-door campaign including the distribution of pamphlets. The program was aimed to last four days from the 26<sup>th</sup> – 30<sup>th</sup> March. The campaign was going smoothly until Saturday 29<sup>th</sup> March when Dr Ramokgopa was due to deliver an assessment report and a pledge to return foreign nationals to their dwellings and shops in the township. The Executive Mayor was booed and ridiculed and could not address the crowd. The tent that was set up for the meeting had to be guarded by the police so that angry community members could not set it alight. Half of the chairs in the tent were stolen. Only strong wind and rain prevented further chaos erupting.

Despite a positive response from government, the response of civil society has been criticized for the general absence of support in terms of assistance with accommodation and material assistance. Those who sought refuge at Mangena Primary School were reliant on hand outs from individuals or community members. This highlights the urgent need to streamline the response to such incidents from government and civil society and for all stakeholders to provide assistance as far as possible.

The situation in Atteridgeville remains tense. A number of foreign nationals have begun to relocate to townships and they have become soft target for simmering tensions between government and local communities over lack of service delivery. The "immigrant hunters" have pledged to their supporters that they will not allow foreign nationals to settle in their areas. Government representatives firmly believe that if these 'criminal' elements are allowed to set a precedent, violence in many more informal settlements will follow suit.

## **Zimbabwean Elections**

The long awaited Zimbabwean parliamentary elections took place on Saturday 29<sup>th</sup> March. Whilst the situation has thus far been relatively peaceful, concerns remain regarding possible violence. Initial results released by the Zimbabwean Electoral Commission indicated that the opposition Movement for Democratic Change had won the parliamentary elections by a slim majority. No results for the presidential elections have yet been released despite the MDC approaching the courts for the release of these results. Zanu-PF has also announced plans to challenge the outcome of the parliamentary results in 16 constituencies despite this not being prescribed by law. Zimbabwean police have launched crackdowns on NGOs, foreign journalists and also raided the MDC offices. 'War veterans' briefly occupied farms in rural areas but were quickly removed by police.

Whilst it appears that the South African government has played an important role in negotiations behind the scenes, there have been concerns about its preparedness to take a decisive position with regards to Zimbabwean nationals crossing to South Africa during the electoral period. Whilst some departments openly engaged with local and international NGOs to explore options in the event of a mass influx of Zimbabweans immediately after the elections, there appears to have been a lack of response from other departments thus sinking attempts at preparing an inter-departmental response to a potential crisis. This was also a criticism levelled at government in the aftermath of the 2002 Zimbabwean elections. The National Disaster Management Centre must be commended for its openness and willingness to engage in finding a way to address this issue. Further updates regarding the situation in Zimbabwe are available on Relief Web at <http://www.reliefweb.int/rw/dbc.nsf/doc104?OpenForm&rc=1&cc=zwe>.

## **Detention Police of DHA Challenged**

Lawyers for Human Rights (LHR) on behalf of CoRMSA brought an application to the Johannesburg High Court challenging the continued detention of asylum seekers who had requested to apply for asylum once at Lindela. LHR received information that four Pakistani nationals of concern were due to be deported and intervened on their behalf. Despite Refugee Affairs agreeing that the four would be allowed to apply for asylum, there was still a move by Immigration to deport the four which required further intervention from LHR. The four Pakistani nationals were then allowed to apply for asylum but were still kept in detention at Lindela. Because the case was in the general public interest LHR on behalf of CoRMSA challenged the policy of detaining asylum seekers who applied for asylum only once they arrived at Lindela.

The court ruled that the detainees named in the case must be freed but refused to rule against the DHA's policy of holding asylum seekers at Lindela in custody until the completion of their asylum application. The judge had stated that because the policy was not correctly stated on the notice of motion he would not be able to adjudicate on it. He also expressed concerns of the implications if he made a decision on the policy that all persons who apply for asylum should be released. A DHA official was also to be investigated for perjury as a document brought before the court appeared to have been fraudulently amended. Our thanks go to LHR for their efforts in this regard.

## **Police Raid on Mitchell's Plain Traders**

On 13<sup>th</sup> March, South African Police Services (SAPS) officials conducted a raid in Mitchell's Plain town centre in Cape Town targeting informal traders operating in the area. Police have since been accused of using excessive force, assaulting traders and stealing money and goods. A number of Somali traders reported being targeted by police. One pregnant Somali woman was allegedly kicked in the stomach which resulted in her suffering a miscarriage. Sources have also alleged the theft of an amount in the region of R26 000 by the police from a woman. The money had been collected by community members to provide medical treatment for the woman. Police are accused of using excessive force, forcing entry to residential properties without allowing residents time to open doors, and assaulting and abusing Somali men – especially those who spoke little or no English. Individuals reportedly tried to lay complaints at the Mitchell's Plain police station on the night of the raid but were allegedly told by a senior policeman that police would not be taking statements from anyone regarding the raid. Many of those affected are members of the newly formed Filanwaa Women's Union, a Mitchell's Plain-based association of Somali women. They are concerned about the treatment they received and want to ensure such behaviour by the police is not repeated. A representative of the Somali nationals is to lay a complaint with the Independent Complaints Directorate.

## **Attacks on Foreign Nationals in Worcester**

On 7<sup>th</sup> March, a resident of Zwelethemba informal settlement outside Worcester in the Western Cape was allegedly shot dead by a Somali shop owner after the resident had apparently tried to rob the shop. A large group of Zwelethemba residents then went on a rampage destroying foreign-run shops and leaving a large number of foreign nationals homeless.

The police have expressed concerns regarding the challenges of policing Zwelethemba as the policing in the area is supplied by a satellite station with the main station being located in central Worcester. There have been accusations that police did not take sufficient action to prevent or limit the damage to foreign-owned shops. A number of community meetings have taken place with mixed views from residents regarding the return of foreign nationals to the area. A number of NGOs have been involved in trying to assist those displaced and have engaged with the local government structures in Worcester to find a sustainable way forward to ending the crisis.

## **Meeting with the DHA on Quota Work Permits**

CoRMSA met with the representative responsible for the Quota Work Permit section of the DHA to discuss the possibility of South Africa filling its skills shortages with highly skilled immigrants who are already in the country before recruiting skills from abroad. Ms Reynecke explained that DHA was part of the economic cluster which comprises DHA, the Department of Education (DoE), the Development Bank of Southern Africa (DBSA), the Department of Trade and Industry (DTI) and the Department of Labour (DoL). Before any quotas can be issued, DTI does its own investigation into the skills that the country has at that particular time and issues a list where skills shortages are noted. On the other hand, DoL also gets information from the various SETAs in terms of where skills shortages are. Before DHA issues any quotas the cluster also determines

the number of South Africans who are enrolled at institutions of higher learning to determine how many are still in training who would be completing their studies within the next five years. If it is concluded that even after these people have graduated the supply of skills would not meet demand, a quota list is then issued for qualifying non-nationals to apply for the quota work permits.

The current challenges that they face with some of the immigrants in the country is that many of them have done short courses in their respective fields and although have sufficient work experience, the DHA has been finding that many are not qualified for the jobs. This then makes it difficult for them to be appointed to fill some of the vacant positions even if they fall within the quota work permits. Even though there might be varying requirements for quota work permits depending on the sector, the following cut across all the sectors: a person have a formal qualification for the position they want to apply for and must have five years experience in that field. From 2008, it is compulsory to register with the practitioner's council in the particular sectors such as the Engineering Council. The challenge that DHA currently faces is that some of the councils cannot cope with the demand for registration such as the South African Council for Educators. This then delays the process of issuing quotas to qualifying people who have to wait for the registration first. The process of registering with the Engineering Council can take anything between 12-18 months and this means the process of filling positions takes longer than expected.

The quota work permit does not tie the holder to a particular employer. Holders are allowed to look for work anywhere where there are vacancies. The challenge currently is that DHA does not have knowledge of where exactly these vacancies are. In a bid to try and address this shortcoming, DoL will be establishing a database in order to be able to assist in matching skills to vacancies in particular sectors. The current situation poses problems for the permit holders as they are provided with 90 days to find employment. This is often insufficient time for them to be able to locate vacancies in their field and go through the interview process.

There is normally no set validity date for quota work permits. However, DHA normally attaches a validity of five years as Immigration IT systems require a permit expiry date. The permit is then automatically renewed after five years. It is also important to note that a quota work permit allows the holder to change jobs as opposed to other work permits where the holder would be tied to a specific employer. The whole application for a quota work permit should take about 30 days. However, this varies from office to office depending on the number of applications received.

Despite concerns having been voiced by government departments about employing nationals of SADC member states in terms of the SADC agreement not to poach member states' skilled workers. It is however only the Department of Health that implements this agreement. DHA's role in this process is to issue permits rather than formulate policy in this area.

### **Labour Court Rules Undocumented Migrants have Labour Rights**

Following the decision last month of the CCMA to represent undocumented migrants in labour disputes, the Johannesburg Labour Court has ruled that undocumented foreign nationals have the same labour rights as South African employees. In a case involving

the dismissal of an Argentinean national after his work permit expired, the court ruled that the employment contract was still valid thus setting a precedent that employment contracts are to be upheld regardless of the legal status of the employee in the country. This is an important step in addressing the exploitation and abuse of foreign nationals – both documented and undocumented – many of whom are paid lower wages than their South African counterparts. This situation has long been recognised as taking place on the farms of Limpopo and Mpumalanga but reports indicate the practice spreading to other parts of the country including the Western Cape. What remains to be explored is how undocumented migrants can seek recourse without facing a fear of arrest and deportation if they bring such labour concerns to the attention of the court or the CCMA.

## **Refugee Amendment Bill**

The Refugees Amendment Bill was again published for comment and Parliamentary Hearings on the Bill took place in Cape Town on the 25<sup>th</sup> and 26<sup>th</sup> March. Lawyers for Human Rights and UCT Law Clinic submitted detailed lists of recommendations regarding the Bill. Further submissions were made by the Legal Resources Centre, UNHCR, AIDS Law Project/Treatment Action Campaign, the Central Methodist Church, and a number of others. CoRMSA also made a brief submission regarding the need to consider the challenges around the implementation of policy when deliberating on the Bill. CoRMSA's submission also highlighted the need for government and civil society to work together to address some of the challenges in the sector. The parliamentary hearings also provided the chance to address a number of the current concerns in the sector with xenophobic attacks on foreign nationals being a key topic. Reports of the two days of hearings are available from the Parliamentary Monitoring Group at <http://www.pmg.org.za/report/20080325-refugees-amendment-bill-public-hearings> and <http://www.pmg.org.za/report/20080326-refugees-amendment-bill-b-11%E2%80%932008-public-hearings>, respectively.

## **Musina Detention Facility**

A submission by the AIDS Law Project (ALP) and Treatment Action Campaign (TAC) before the Portfolio Committee on Home Affairs raised concerns about the standards of detention at the detention facility in Musina. A number of civil society organisations have been refused access to detainees at the facility which is allegedly run by the South African Police Services (SAPS) and South African National Defence Force (SANDF). The ALP and TAC team that visited the facility was concerned about due process being followed when deporting foreign nationals, health care standards at the facility as well as the general standard of detention at the facility. CoRMSA has also discussed the involvement of the DHA in the facility with senior DHA management. DHA's response is that it is not involved in the running of the facility but is called in by the SAPS and SANDF to profile detainees and assist with the deportation process. LHR is exploring the legality of the facility.

## **Call on South Africa to Ratify Treaty on Torture**

The South African Human Rights Commission (SAHRC) has called for the government to ratify the Option Protocol to the Convention Against Torture (OPCAT). Whilst the South African government has signed OPCAT, it has not yet ratified the treaty which would require the government to conduct visits to places of detention including Lindela

and release annual public reports. This would be a welcome step in addressing the ongoing allegations about detention standards in Lindela and elsewhere.

### **Jesuit Refugee Service Open Limpopo Office**

Jesuit Refugee Service (JRS) is pleased to announce the opening of a Limpopo branch in Makhado. The office will provide humanitarian assistance to refugees and asylum seekers including Zimbabwean nationals. The JRS Limpopo office will also provide information and advice to Zimbabweans and other refugees living or passing through Limpopo province as well raise awareness and advocate on behalf of asylum seekers and refugees in the area. The JRS Limpopo office is located at 1 Industrial St, Makhado (formerly Louis Trichardt). The contact person is Ms Thandi Hadebe, Project Director - Cell: 072 513 8817.

### **Challenges Remain in Refugee Access to Health Care**

Many challenges remain in refugees' accessing health care at health care institutions. Some of these barriers relate to similar challenges experienced by South Africans with the added disadvantage of language barriers for foreign nationals. Last week a young Congolese girl passed away in the waiting room of a hospital in Cape Town. She had been waiting for assistance since the previous evening but her guardian had not had the language skills to draw the attention of hospital staff to the girl's declining condition. A further issue this unfortunate incident highlights is refugees' awareness of the South African health care system as the girl should initially have been taken to a primary health care clinic where it is more likely she would have received attention more rapidly. Doctors have informed Bonne Esperance that in many cases refugee mothers are not supplying the hospital with enough information to enable a quick diagnosis and the treatment of conditions of their children. This is a further challenge that we as service providers along with government need to address.

### **Children's Forum Meeting**

The second network meeting of the Children's Forum focusing on children who cross borders brought a number of organisations that focus on children's rights together for the first time. A number of gaps in the provision of services to children were raised including the rights of children who have been born in South Africa to foreign parents but have not had their birth registered. In a number of cases these children's parents have passed away leaving the children without documentation in South Africa. This issue was raised by an organisation that is currently caring for close to 70 children who find themselves in this position. CoRMSA and others are following up on this. The next meeting of the Children's Forum will take place on 28<sup>th</sup> April. Those interested in attending, please contact Duncan at [Duncan.crmsa@gmail.com](mailto:Duncan.crmsa@gmail.com).

### **Refugee Children's Project Open Limpopo Satellite Office**

The Refugee Children's Project (RCP) has announced the opening of a satellite office in Polokwane, Limpopo. This office will focus on providing legal assistance to refugees, asylum seekers and migrants – especially women and children; providing community monitoring; conducting monitoring at the Zimbabwean border; and other activities. Further information is available from the RCP Johannesburg office on 011 333 9266.

## **Refugee Aid Organisation Launch**

A new organisation assisting refugees and asylum seekers will be launched on Friday 11<sup>th</sup> April at 1.30 at the Sunnyside Primary School, Leyds Street Entrance, Pretoria. RAO will serve as an umbrella organisation synchronising services rendered to refugees in South Africa. The organisation offers:

- Awareness session to the public on the realities of refugees and asylum seekers,
- A women's and a men's support group which is also assisting in finding employment opportunities for these people.
- Monthly outreach sessions are held for South Africans to socialise with refugees
- School programmes to facilitate integration for children.
- A refugee community newspaper

RAO has been able to offer service to refugees as a result of the support offered to them by Catholic Woman's league and Lawyers for Human Rights. Please contact Claudia at [Claudia@sa-rao.org](mailto:Claudia@sa-rao.org) if you are interested in attending the launch or for further information.

## **Protest March in Durban Cancelled**

A protest march by the KwaZulu-Natal Refugee Council scheduled for 8<sup>th</sup> April has been cancelled after representatives of the Durban Refugee Reception Office agreed to meet to discuss the Council's grievances. For more information on the march contact Pierre Matate on 073 232 6029.

## **Sex Workers Networking Forum**

Following the successful Sex Workers Symposium held last October, the Reproductive Health Care Unit at Wits University is establishing a Sex Workers Networking Forum where organisations working with sex workers can meet and discuss challenges. CoRMSA would like to encourage refugee and migrant service providers and community based organisations to attend as currently no organisations are providing assistance to foreign nationals who may be sex workers. By networking with organisations that work directly with sex workers, we will be able to ensure foreign national sex workers are aware of their rights as foreign nationals in South Africa as well as the services that are available to them.

The first meeting will take place on Tuesday 6<sup>th</sup> May from 10am to 12pm at the Hugh Solomon Building, Corner of Esselen and Klein Streets, Hillbrow. Organisations interested in attending are requested to contact Lauren Jankelowitz at [ljankelowitz@rhru.co.za](mailto:ljankelowitz@rhru.co.za).

## **Islamic Relief workshops**

Islamic Relief will be running a series of events focusing on refugee integration in South Africa. These events will be taking place in Johannesburg, Cape Town, Durban,

Polokwane and Port Elizabeth and will run for the next six months. The first event will take place in Johannesburg on 27<sup>th</sup> April. Further details will follow.

### **Access to Education Training**

The Centre for Applied Legal Studies (CALs) kindly provided training on access to education for foreign nationals in Johannesburg on 2<sup>nd</sup> April. A number of representatives of refugee and migrant organisations attended this training alongside representatives of the Gauteng Department of Education. This training incorporated information about applying for a waiving of school fees as well as calculating fee exemptions on school fees. CALs has expressed an interest in providing this training in Cape Town, Durban and Port Elizabeth too. If organisations in these areas are interested in attending such training, please contact Mpilo at [mpilocha@gmail.com](mailto:mpilocha@gmail.com). For further information about the training or CALs, please contact Phillipa at [phillipa.tucker@wits.ac.za](mailto:phillipa.tucker@wits.ac.za).

### **City of Joburg Trading Laws Training**

The City of Joburg is providing training to representatives of civil society on its trading by-laws. The initial training will take place on the 17<sup>th</sup> April from 10 - 12pm in central Johannesburg and will form part of a programme to inform foreign nationals of their rights and responsibilities with regards to the by-laws to address conflict between traders and the Johannesburg Metropolitan Police Department. Organisations or individuals interested in attending on the 17<sup>th</sup> April or future training sessions please contact Mpilo at [mpilocha@gmail.com](mailto:mpilocha@gmail.com).