



Rigid policies deny help to Zimbabweans

By Mary Corrigan

While the political and economic conditions in Zimbabwe steadily worsen, there is no comprehensive humanitarian programme or legal response in place in South Africa to deal with those fleeing that country. Instead, many Zimbabweans crossing the border into South Africa are turned away, arrested or deported.

This is one of the findings in a report on refugees and asylum seekers that was issued by the Consortium for Refugees and Migrants in South Africa (Cormsa) to coincide with World Refugee Day on June 20.

The department of home affairs (DHA) has ruled that most Zimbabweans cannot be classified as refugees according to the United Nations Convention Relating to the Status of Refugees and therefore have no legal grounds to seek refuge here. The DHA would consider Zimbabwean immigrants as bona fide refugees only if the political turmoil escalated to war, the department said in a statement this week.

'We cannot develop a policy that relates to one group of people'

The government's hardline policy towards Zimbabwean expatriates is endemic of its denial of the crisis in that country.

However, fed up with squandering resources on deportation of foreign nationals who keep re-entering South Africa, the government is said to be considering a new dispensation towards economic migrants from Southern African Development Community countries.

In the meantime, thousands of Zimbabweans attempting to enter the country and lodge asylum claims are being turned away by border officials or arrested before they have a chance to travel to one of the refugee reception centres, which are situated only in the major cities, according to Cormsa's findings.

The DHA does not agree that the South African police and immigration officials who monitor the country's borders are denying would-be refugees their rights, inferring that most Zimbabweans' claims for asylum aren't genuine.

"The problem is that most Zimbabweans don't qualify as asylum seekers," Siobhan McCarthy, the chief director of communications at the DHA, said. She added that the department embraced a definition of refugees as set out by the UN convention, which defines refugees as those escaping persecution.

"So unless they are political activists and their life is directly under threat, they don't qualify as refugees. And this is one of the challenges that we face. Unless war breaks out in Zimbabwe, most Zimbabweans will not be considered refugees."

Should some of the few individuals that the DHA does deem bona fide asylum seekers be arrested upon entering the country, their status would be properly assessed by DHA officials at the Lindela Detention Centre, McCarthy said.

The Organisation of African Unity (OAU) defined refugees as individuals "leaving

an area of serious disorder", Loren Landau, the director of the Forced Migration Studies Programme at the University of the Witwatersrand, said.

"Based on this definition I think it is pretty clear that all Zimbabweans fall into that category."

South African law has absorbed the OAU's definition of refugees, he explained, but the DHA has chosen to reinterpret the law so as to fall in line with the government's stance on Zimbabwe.

"When you have a 'silent' foreign policy towards Zimbabwe that refuses to admit that there is a crisis, you can hardly have policies in place that treat the situation as a crisis," he said.

Poor communication between the DHA and security services and the overzealous enforcement of the Immigration Act are to blame for the brutal treatment of Zimbabwean refugees, Cormsa's report says.

The Refugees Act of 1998 allows foreigners to enter the country informally without being issued transit permits, which would allow them to remain legally until they are able to apply for refugee status.

However, the Immigration Act of 2002 gives authorities licence to arrest and detain would-be and recognised asylum seekers.

"The Immigration Act doesn't allow anyone to enter the country legally unless they have a work permit. Semi-skilled workers or those wanting to start small businesses are simply denied entry."

In light of the humanitarian crisis in Zimbabwe, Cormsa recommends that the DHA should cease the deportation of Zimbabweans and issue them with temporary permits that would allow them to remain in the country legally, give them access to basic services and allow them to work for a limited period of time.

But the DHA has said that it does not make sense to establish a programme tailor-made for a single nationality of refugees.

"We cannot develop a policy that relates to one group of people. It would have to apply to all surrounding countries. What would happen if there was suddenly a coup in Lesotho? We would have to go back to cabinet and amend the law," McCarthy said.

The DHA recognised that new legislation was needed to address the problems facing prospective refugees, she said. A task team had been appointed in November to identify viable options.

"The [xenophobic] events of the past six weeks have highlighted that some of our policies need to change."

The absence of a humanitarian programme for Zimbabwean refugees exacerbates anti-foreigner sentiment, according to Cormsa's report.

"The government can't stop immigration, but if they allow immigrants to enter the workforce along official channels, it would prevent the undercutting of wages and foster integration," Landau said.

- This article was originally published on page 16 of [The Sunday Independent](#) on June 29, 2008

THE SUNDAY INDEPENDENT

Published on the Web by IOL on 2008-06-29 13:34:00

© Independent Online 2005. All rights reserved. IOL publishes this article in good faith but is not liable for any loss or damage caused by reliance on the information it contains.