

CoRMSA NEWSLETTER

Edition 14 – 8th April 2009

Commemorating the Xenophobic Attacks: Remembering our Forgotten Commitments to End the Violence

Guest Editorial by Dr Loren Landau, Director of the Forced Migration Studies Programme and
CoRMSA Executive Committee Member

A year ago, residents of Alexandra turned violently on their non-citizen neighbours. Within days, violence spread across Gauteng Province and to informal settlements and townships across the country. During two terrible weeks, at least 62 people died. Most were from elsewhere in Africa, others were South Africans who had married non-nationals, refused to participate in the violent orgy, or had the misfortune to belong to minority ethnic groups that were not quite South African enough. Another 670 people were wounded, others raped, and thousands verbally assaulted. By the end of the melee, a hundred and fifty thousand or more were displaced, tens of thousands fleeing to neighbouring countries. In the process, perpetrators destroyed or redistributed millions of Rand worth of goods and hundreds of foreign-owned houses.

After initially denying a crisis and offering unheeded appeals for calm, the South African government called on the armed forces to help quell the violence. With most of the non-nationals gone and the threat of arrest temporarily made real, the belligerents slipped back into the townships' embrace from which they emerged. After a two-week melee, relative calm returned. South Africa may never again see the kind of violence in saw in May 2008 and government officials have since claimed non-nationals are safe in South African communities. But while the mass violence has subsided, last year's melee did not mark the end of attacks on non-nationals. Since June 2008, further attacks on non-nationals have occurred. Many of these are just the run of the mill township killings that South Africans have learned to overlook. Yet in other cases, threats of further mob violence targeting non-nationals in areas such as Diepsloot have been clear.

The cessation of mass violence may not have ended the murders and harassment, but it largely marked the end of political interest in the topic. The outpourings of sympathy and politicians' demands to counter xenophobia have been overshadowed by national elections and the global economic meltdown. The special courts established to prosecute the perpetrators have done little. And while the National Prosecuting Authority has managed convictions in 70 cases, this does not appear to include those who engineered the displacement of thousands from their communities.

It is true that local government is now interested in migration in a way they never have been before, a positive sign but insufficient gesture. Much as the senior layers of local government have recognised that international migration can no longer be ignored, local leaders – ward councillors, street committees, and local mobsters *cum* community leaders, have realised the

benefits of scapegoating, goading, and occasionally murdering non-nationals. CoRMSA commissioned research done by Wits University confirms what many of us have long suspected, that they have literally gotten away with murder. Councillor Khoza in eThekweni was arrested after allegedly leading a mob that chased two non-nationals out of a building in the name of crime prevention. But others guilty of equally egregious violations of rights and dignity have kept their jobs. Recent calls by senior ANC leadership to strengthen ward and street committees will only foster further violence if it means empowering those willing to attack and exclude for political gain.

Although the number of non-nationals killed during those two terrible weeks in May hardly compares with the number South Africans killed over the past year, this was more than South Africa's extra-ordinary levels of 'ordinary' violence. Almost as many people were killed as in Sharpeville shooting. But instead of falling victim to a tyrannical state, their deaths came through the hands of their neighbours and community leaders. The violence was not only an expression of xenophobia, but represented rage at worsening inequality, poverty, and failure to claim the prosperity and security the citizens feel owed. Our new government may be more pro-poor than those of the past, but unless there is a magician or two in the new cabinet, there will be fewer houses, fewer jobs, and less money to go around. Elevated expectations and diminished ability to deliver is bound to lead to disappoint and danger. And as long as there are incentives for economically, politically, or physically excluding groups from communities and political processes, the possibility of violence is all too real.

In the next few months, the South African Human Rights Commission will begin a process to investigate the May 2008 attacks. For this to be anything other than a case of 'too little, too late', the commission must find ways to encourage our new government to build a trusted, accountable, and competent local leadership committed to universal justice and the rule of law. But preventing future violence will require more than condemnation and public awareness campaigns. The protection of non-nationals, ethnic minorities, and other 'unpopular' groups depends on promoting universal access to the justice system and deliberative structures, enhancing community-based conflict resolution mechanisms that respect the constitutional principles of universal rights and due process; and countering a culture of impunity with regard to public violence in general and xenophobic violence in particular. This involves pro-active responses from the Human Rights Commission, the Department of Justice, Safety and Security, and the Department of Provincial and Local Government.

Our new leadership will face countless challenges in fulfilling campaign promises to improve all South Africans' economic and physical security. International migrants can play a critical role in this. But if they are to contribute their skills, creativity, and labour to bettering South Africa and expanding its trade and reputation across the continent, they must be protected. This does not mean putting migrants' interests before South Africans' needs. Rather, it means recognizing that the two are inseparable.

New Immigration Regime for Zimbabwean Nationals in South Africa

CoRMSA welcomes the announcements by the Minister of Home Affairs of the new immigration regime for Zimbabwean nationals. CoRMSA and a wide range of other groups including Human Rights Watch and UNHCR have long been calling for the introduction of new measures to provide legal status for Zimbabweans in South Africa given the ongoing crisis in Zimbabwe. The Department of Home Affairs (DHA) has now introduced two new measures to allow additional options for Zimbabwean nationals to enter and remain in South Africa legally.

Visa-Free Entry

The DHA has signed an agreement with its Zimbabwean counterparts removing the need for Zimbabwean nationals to obtain a visa to enter South Africa. Visas previously cost R425. Zimbabweans still need to have one of the three legal travel documents that South Africa recognises – a passport, an emergency travel certificate or a border pass. Zimbabweans will not be allowed entry into South Africa just with an identity document.

Zimbabweans arriving at a South African port of entry will be issued with a sticker allowing them 90 days to remain in the country. For those entering South Africa and wishing to work, they must inform an immigration official who will then endorse the visitor's permit allowing them the right to work.

The maximum length of stay on this visitor's permit is 90 days. If a person wishes to stay on beyond then, they can apply for a further 90 days at a DHA office at a cost of R425. The permit is only renewable once. Instead of renewing the permit, Zimbabweans are also allowed to exit the country within 90 days and then re-enter and they will then be issued with a new permit for 90 days. There is no limit to the number of times Zimbabwean nationals will be allowed to leave and enter the country and thus receive new visitor's permits.

Whilst an endorsed visitor's permit does allow for the right to work, having this permit will not allow Zimbabwean nationals immediate access to all work opportunities. South African labour regulations place a number of restrictions on non-nationals including the need to advertise widely for the position before hiring a non-national in some occupations. In other occupations, there is a need to register with the particular practitioners' council before one can obtain work in that profession and so this endorsed visitor's permit is not well suited for skilled labour as it is only a short term permit.

This is an important step towards improving relations with Zimbabwe as well as improving regional integration and is in line with the provisions of the SADC Protocol on the Facilitation of Movement of Persons. Citizens of all of South Africa's neighbours are now allowed visa-free entry into South Africa and it is now only citizens of Tanzania, Angola and the Democratic Republic of Congo that still require visas to enter South Africa.

Section 31 (2)(b) Special Dispensation Permit

In addition to visa-free entry, the Minister has also announced plans to provide a longer term permit to Zimbabwean nationals who are in South Africa already. Section 31 (2)(b) of the Immigration Act allows for the Minister of Home Affairs to "grant a foreigner or a category of foreigners the rights of permanent residence for a specified or unspecified period when special circumstances exist which justify such a decision...". It is this section of the law the new 'special dispensation' permit will be issued under.

The Section 31(2)(b) permit will be available in South Africa and will be valid for 12 months from the date of issue. The permit will allow the bearer the right to work and study as well as to access basic health care and other rights. During the 12 months, the DHA will assess conditions in Zimbabwe and make an announcement regarding whether permits are to be renewed for a longer period or not.

The new permit is not yet ready for implementation as the DHA is currently locating suitable venues to use for the roll out of permits. Permit roll outs are likely to occur within the major

urban centres where Refugee Reception Offices are currently located. The Refugee Reception Offices will NOT be used for the roll out of permits given the existing challenges around access to the offices. Zimbabweans will still be allowed to apply for asylum despite the introduction of the new permit so those who are fleeing persecution will still be protected.

DHA is likely to ask those who are applying for the new Section 31(2)(b) permits to relinquish their asylum permits if they have no intention of continuing their asylum application. Simply put, the asylum system will remain the best system for those fleeing persecution in Zimbabwe, whilst the Section 31(2)(b) permit will offer the best opportunities for those not fleeing persecution but rather seeking work in South Africa given the situation in Zimbabwe.

To make the system work well, Zimbabwean nationals could enter the country on a visitor's permit and spend up to 90 days assessing conditions and looking for work. If a person intends to stay on beyond that and work, then it would be worthwhile to apply for a Section 31(2)(b) permit which would be valid for 12 months. The permit would also not be revoked if a person wished to return home temporarily during the 12 months of its validity.

The provision of the permit means greater access to legal status for Zimbabwean nationals, which has important human rights implications. It means that Zimbabweans can access rights such as essential health and seek recourse where their rights are being violated. The permit will also assist in upholding South African labour standards as Zimbabwean nationals need no longer be exploited by employers for fear of being reported for being undocumented.

The permit also allows for Zimbabwean nationals to contribute their skills to the South African economy at a time where South Africa's lack of skills poses serious development challenges. The example of Zimbabwean teachers helping fill vacant teaching posts and thus helping to improve the quality of South Africa's education system is well-known.

For these reasons, CoRMSA congratulates the Minister of Home Affairs on the decision to introduce these new measures and calls on organisations to publicly support this process despite the negative sentiments that have been expressed by some groups regarding the new measures for Zimbabweans.

Worcester Equality Court Case

The Equality Court case brought against the police by 11 non-nationals who were attacked and had their property destroyed during xenophobic violence in 2008 has got underway. UCT Law Clinic is representing the complainants who are claiming damages from the police who they allege failed to protect them and their property and discriminated against them by protecting the South African-owned businesses and not those owned by non-nationals. The complainants are recognised refugees from Somalia, Ethiopia, Zimbabwe and the Democratic Republic of Congo who were attacked in March 2008 in Zweeklethamba, near Worcester in the Western Cape.

The complainants allege that little was done by police despite the warnings of lootings and violence. The police have thus far denied the allegations and argued that their response was within their means. The matter was postponed until 15th June.

New Civil Society Network on Humanitarian Assistance Initiated

A new humanitarian assistance network is being established in South Africa to provide greater coordination and cooperation in responding to incidents where humanitarian assistance is

needed. The need for such a network was established by research conducted following the xenophobic violence of May 2008.

The newly-founded Humanitarian Assistance Network of South Africa (HANSA) seeks to support existing civil society organisations by providing greater information on disaster management standards, providing standardised assessment tools, improving information sharing as well as improving engagement with government and other structures. Further information on the development of the network will be shared once further progress is made.

Christians for Peace in Africa holds Peace Conference in Johannesburg

CoRMSA member Christians for Peace in Africa will be holding an International Conference on Peace in Africa in Johannesburg from 20th to 22nd May. The conference has been endorsed by the City of Joburg and the South African Human Rights Commission and will be held at the South African Human Rights Commission offices. The conference aims to develop a stronger network of African peacemakers, showcase values necessary for peace and development and provide an opportunity for greater short term networking amongst practitioners. The speaker list includes an impressive range of local and international leaders as well as respected academics. For information on the conference, please contact Pastor Thomas-Rene Kitutu Z'lkossi on 072 262 5302 or at christianforpeacein africa@yahoo.com.

More Attacks on Somali Nationals in Delft, Cape Town

A further attack took place on Somali nationals in Delft in Cape Town on 13th April. Robbers accosted three Somali men outside their shop and demanded access to the shop, which was locked from the inside. When the robbers were unable to access the shop they allegedly fired indiscriminately killing one man and wounding two. Five suspects were later arrested in connection with the incident and would appear in court on charges of armed robbery and murder.

Lack of Communication over Deportation leads to Prolonged Detention

On 3rd April 2009, the Minister of Home Affairs announced that a new special dispensation permit will be provided to Zimbabwean nationals. As a result of the decision to roll out this permit, deportation of Zimbabweans arrested only on immigration charges would be halted. Shortly after the announcement of the new permit, deportations of Zimbabwean nationals from Lindela were put on hold.

In Musina, arrests and deportations of Zimbabwean nationals continued to take place. The detention facility in Musina is operated by the South African Police Service (SAPS) but by law, immigration detention facilities must be operated by the DHA. This has been the subject of court action from Lawyers for Human Rights (LHR).

Despite the Minister's announcement, SAPS reported that it had not received formal communication of the halting of deportations from its national office and as a result, it attempted to continue to deport Zimbabweans. In one incident, DHA immigration officials refused to allow SAPS trucks to leave South Africa in order to deport Zimbabweans. The SAPS trucks forcibly drove across the border but were denied access to Zimbabwe by Zimbabwean immigration officials as the necessary procedure had not been followed for the deportation. As a result, the Zimbabwean nationals were taken back to Musina and returned to the Musina detention facility

where they spent a number of days as SAPS could not deport them but refused to release them without instructions from national office.

CoRMSA engaged DHA's national office and it was agreed that communication would be sent by DHA to SAPS national office which would then be communicated to the local SAPS. Given the urgency of the matter, LHR also approached the North Gauteng High Court and were granted an order ensuring the release of all Zimbabwean nationals that had been held for over 48 hours at the Musina detention facility. This resulted in the release of around 600 Zimbabwean nationals. Since the court action, LHR and other organisations have been engaging with the police and DHA in Musina and Zimbabwean nationals are no longer being detained or deported in Musina.

Lack of Access to Health Care for Rape Victims in Musina

Organisations working in Musina have reported that non-national rape victims are being denied access to health care at the Musina hospital unless they have first reported the matter to the police. In Musina, the police have played a major role in arresting and deporting non-nationals and as a result, many victims of rape have indicated that they are too scared to report to the police. The practice at the hospital is out of line with national policy and initiatives have been arranged to engage with the hospital and Provincial Health Department about this. Amnesty International is also preparing action in relation to the situation.

Riot at Lindela over Length of Detention and Detention Conditions

On 20th April, detainees at Lindela initiated a hunger strike in order to draw attention to their concerns regarding the length of detention of some detainees as well as nutrition and sanitation in the facility. According to statistics from early April, 79 detainees had been in detention beyond the maximum legal period of 120 days. A number had been in detention for more than two years.

The detainees reported that on the 20th April a large crowd refused to go to the kitchen and requested to be addressed by the Head of Immigration at Lindela. A scuffle broke out between security and detainees and detainees allege they were then beaten by security with hosepipes.

At the request of LHR, the South African Human Rights Commission (SAHRC) visited Lindela on 23rd April and met with representatives of the detainees regarding their concerns. The SAHRC has submitted a report to the DHA and will be following up with DHA regarding the incident.

Case against Durban Ward Councillor Postponed

The case against a Durban ward councillor who, along with seven other people, has been charged with murder, attempted murder and assault in connection with an incident in January where a mob of around 100 people forced two non-nationals to jump from a high-rise building has been postponed. The accused are currently out on bail of R2 000 each except for one accused who was unable to raise bail money. The postponement of the matter is to allow time for the State to decide whether or not to proceed with the case.

Lawyers for Human Rights in Durban is considering instituting a civil claim against the state as it is alleged that the police did not do enough to protect the victims of the attacks. After the incident, witnesses suggested that the mob passed by the police station two nights running but little was done to stop them.

Tshwane Interim Refugee Reception Office Operational

The new Tshwane Interim Refugee Reception Office (TIRRO) at the Pretoria Showgrounds is now operational and handling applications from new asylum applicants from SADC countries. Newly arrived asylum seekers in Gauteng from Botswana, DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Swaziland, Seychelles, Tanzania, Zambia or Zimbabwe now need to apply at this office. The office is open for five days a week and is based at 203 Soutter Street, Pretoria Showgrounds, Pretoria. The office contact number is 012 306 0800. SADC nationals who have already applied for asylum at Marabastad or Crown Mines must still continue with their application process at the office where they applied.

New Intake System in Place at Crown Mines

With the opening of the new TIRRO facility in Tshwane, the Refugee Reception Office at Crown Mines is no longer taking newcomers from SADC countries. Newcomers from non-SADC countries will be accepted on the following days:

- Mondays - Central Africa
- Tuesdays & Wednesdays - East Africa
- Thursdays & Fridays - North/West Africa & outside Africa

The breakdown of each of the above regions is as follows:

Mondays - Central Africa

- Central African Republic
- Congo Brazzaville
- Rwanda
- Burundi

Tuesdays & Wednesdays - East Africa

- Chad
- Eritrea
- Ethiopia
- Kenya
- Somalia
- Sudan
- Uganda

Thursdays & Fridays: North/West Africa and outside Africa

- Benin
- Burkina Faso
- Cameroon
- Cote d'Ivoire (Ivory Coast)
- Cape Verde
- Djibouti
- The Gambia
- Ghana
- Guinea
- Guinea-Bissau
- Liberia

- Mali
- Mauritania
- Niger
- Nigeria
- Senegal
- Sierra Leone
- Togo
- And outside of Africa

This system of certain nationalities being assisted on particular days only applies to those making their application for the first time. Those wishing to renew their permits can do so on any day of the week regardless of what country they are from.

The Crown Mines Refugee Reception Office will also be having a stakeholders meeting on 12th May at 10am its office at 19 Planet Avenue, Crown Mines, Johannesburg. Those wishing to attend are requested to confirm their attendance with Humbulani at Kenneth.Tshithavhane@dha.gov.za or on 011 226 4600.

Launch of Cape Town Food Bank

On the 6th April the Cape Town Food Bank officially opened its doors. The Food Bank is a combination of NGOs, government, and private growers all committed to ensuring adequate nutrition for residents of the greater Cape Town area. The focus of the Food Bank is vulnerable and marginalised communities.

The African Disabled Refugee Organisation (ADRO), in collaboration with the Black Sash Cape Town Regional Office, had several meetings with the Food Bank discussing ways they can help incorporate their work to assist the migrants and refugees in the Western Cape. The Food Bank is now working together with ADRO by providing food. Black Sash will be involved in monitoring the process and will refer their clients to the various organizations where they can receive help. ADRO will cover the areas of Cape Town, Woodstock, Maitland and Brooklyn and encourages other organizations to contact the Food Bank so that they will be able to assist in other areas.

At the launch of the Cape Town Food Bank, the Food Bank announced plans to open other branches in Johannesburg, Durban and Port Elizabeth in the upcoming months. The Cape Town Food Bank is located on the corner of Stock Road and Market Street next to the Philippi Fresh Produce Market and will deliver food to organisations in the communities.

Community groups can apply for food from the Food Bank by writing a letter to the Food bank including:

- Organisation name (must be an already established NGO)
- Contact person
- Contact details
- Area located
- Purpose of organisation
- Number of people the organisation intends to serve or is currently feeding

To apply, contact Masixole Mbaret at masixole@foodbankcapetown.org or on 021 3710042. Applications can also be made via the website at www.foodbankcapetown.org where the Food Assistance Request Form needs to be completed. For General Enquiries call the National Food Bank at 021 6850484 or fax them at 021 6857482.

New Organisation to Assist with Access to Schools and Placement of Teachers

Sunrise Educational Forum, a Non-Profit Organisation based in Johannesburg, aims to assist with access to schools for refugee children as well as assist non-national teachers in finding employment in schools. The office contact number is 011 615 9226 (tel or fax). Other contacts are Hilda, the Administrative Assistant on 071 595 6508 and Lesh Gombo on 083 516 9238.

Legal Services Available at ProBono.org, Johannesburg

Free legal services and advice are available to refugees and asylum seekers at ProBono.org in central Johannesburg every Thursday from 9am to 4pm. Clients are seen on a 'first come, first served' basis. The Refugee Clinic is staffed by professional attorneys from private firms who assist with matters such as:

- Appeals
- Applications for temporary residence permits
- Applications for joining of files in the case of marriage
- Opening of bank accounts
- Obtaining health care when it has been refused
- Where schools refuse to enrol children
- Approaching courts where discrimination occurs as a result of their status
- Return to their country of origin where possible
- Family reunification with a family member who has acquired refugee status in another country

The Refugee Clinic is on the 9th Floor Schreiner Chambers – South Wing, 94 Pritchard Street, Johannesburg. The contact telephone number is 011 336 9510 and the fax is 011 336 9511. Enquiries can also be addressed to phumi@probono-org.org.

Xenophobia Photo Exhibition Opens at Constitution Hill

On Monday 11th May, an exhibition showcasing the photographs taken by Alon Skuy during the xenophobic violence last year will be opened. The event starts at 6.30pm with a talk by Hans-Pieter Boe, the Regional Representative of the International Organisation for Migration. The exhibition will be held at Number 4, Constitution Hill. For further information, please contact Mxolisi Dlamuka on 011 381 3100.

Job Vacancy

Research Coordinator: Migrant Rights Monitoring Project

The Forced Migration Studies Programme is looking to hire an experienced and committed researcher to join its Migrant Rights Monitoring Project (MRMP). Based at Wits University, the researcher will coordinate teams of researchers working across South and Southern Africa to promote empirically-informed, rights-based approaches to migration policy and practice. The position will involve overseeing ongoing projects, maintaining quantitative data bases, and designing and implementing research initiatives.

The position will be offered as a one-year renewable contract beginning as soon as possible.

Qualifications & Experience: Successful applicants will have a PhD in a relevant Social Science discipline, experience in qualitative and quantitative methods, plus two to five years of relevant research experience in South or Southern Africa. Applicants with a Masters degree and five or more years of research experience may also be considered.

Remuneration: Competitive, in accordance with qualifications and experience.

Closing date for applications: 19 May 2009

Enquiries: Professor Loren Landau, Director, Forced Migration Studies Programme

E-mail: Loren.Landau@wits.ac.za

To apply: Submit a covering letter, a detailed CV with the names and email addresses of three referees, at least three examples of research publications, and certified copies of degrees and diplomas to Mrs Pumla Ngcobo, Humanities Human Resources Office, University of the Witwatersrand, Johannesburg, Private Bag X 3, Wits 2050. (Tel 011 717 1411; E-mail pumla.ngcobo@wits.ac.za)

For more on the Forced Migration Studies Programme, see www.migration.org.za