

# National Refugee Survey

QUALITATIVE FINDINGS FROM JOHANNESBURG AND  
PRETORIA

RESEARCHED FOR THE  
JAPAN INTERNATIONAL COOPERATION  
AGENCY (JICA)

BY THE  
COMMUNITY AGENCY FOR SOCIAL  
ENQUIRY

MARCH 2003



**Published by:** The Community Agency for Social Enquiry (C A S E)

PO Box 32882

Braamfontein

2017

Telephone: +27 (11) 646 5922

Fax: +27 (11) 646 5919

e-mail: [director@case.org.za](mailto:director@case.org.za)

Web site address: <http://www.case.org.za>

© **JICA:** Japan International Cooperation Agency, 2003.



**FLORENCIA BELVEDERE**

# TABLE OF CONTENTS

<b>LIST OF ACRONYMS .....</b>	<b>V</b>
<b>EXECUTIVE SUMMARY .....</b>	<b>VI</b>
BACKGROUND TO THE STUDY & METHODOLOGY .....	VI
MAIN FINDINGS FROM THE STUDY .....	VI
Experiences upon arrival in South Africa .....	vi
Interaction with the Department of Home Affairs .....	viii
Access to health and education services .....	x
Accessing legal and social assistance .....	xi
Areas of possible intervention .....	xiii
<b>INTRODUCTION.....</b>	<b>1</b>
BACKGROUND TO THE STUDY .....	1
METHODOLOGY .....	1
STRUCTURE OF THE REPORT .....	2
<b>EXPERIENCES UPON ARRIVAL IN SOUTH AFRICA .....</b>	<b>3</b>
ARRIVING ALONE, WITH FAMILY OR FRIENDS? .....	3
PLACES TO STAY UPON ARRIVAL TO SOUTH AFRICA .....	6
<b>INTERACTION WITH THE DEPARTMENT OF HOME AFFAIRS .....</b>	<b>10</b>
WORK AND STUDY PROHIBITION .....	10
ACCESS TO THE REFUGEE RECEPTION OFFICES.....	14
PROBLEMS ASSOCIATED WITH DOCUMENTATION.....	16
Opening bank accounts .....	18
Accessing employment .....	19
Other problems encountered due to the lack of proper ID documents .....	21
<b>ACCESS TO HEALTH AND EDUCATION SERVICES.....</b>	<b>23</b>
ACCESS TO EMERGENCY HEALTH CARE.....	23
ACCESS TO PRIMARY SCHOOL EDUCATION .....	26
<b>AVAILABLE TYPES OF ASSISTANCE .....</b>	<b>29</b>
WITS LAW CLINIC.....	29
LAWYERS FOR HUMAN RIGHTS.....	32
Legal assistance .....	32
Lobbying and advocacy .....	33
Training.....	33
Networking .....	34
Research.....	34
JESUIT REFUGEE SERVICES .....	34

Advocacy .....	35
Media work .....	35
Social Assistance .....	36
Education .....	37
BLACK SASH .....	38
NATIONAL CONSORTIUM ON REFUGEE AFFAIRS .....	39
EXPERIENCES IN OBTAINING ASSISTANCE .....	39
Lack of referral mechanisms .....	40
Trade-offs in seeking assistance .....	41
Lack of clarity about mandates and criteria .....	41
<b>AREAS OF POSSIBLE INTERVENTION .....</b>	<b>55</b>
INTERVENTIONS INVOLVING THE DEPARTMENT OF HOME AFFAIRS .....	55
INTERVENTIONS INVOLVING SERVICE PROVIDERS .....	56
INTERVENTIONS INVOLVING UNHCR .....	57
<b>APPENDIX A .....</b>	<b>59</b>
FOCUS GROUP IN JOHANNESBURG .....	59
FOCUS GROUP IN PRETORIA .....	59
IN-DEPTH INTERVIEWS .....	60
Interviews with asylum seekers and refugees .....	60
Interviews with service providers .....	60
Interviews with Heads of Refugee Reception Offices .....	60

# LIST OF ACRONYMS

---

The list below provides expansions of acronyms used throughout the report.

DHA	Department of Home Affairs
JICA	Japan International Cooperation Agency
JRS	Jesuit Refugee Services
LHR	Lawyers for Human Rights
NCRA	National Consortium on Refugee Affairs
RRP	Refugee Rights Programme
RSDO	Refugee Status Determination Officer
UNHCR	United Nations High Commissioner for Refugees

# EXECUTIVE SUMMARY

---

## BACKGROUND TO THE STUDY & METHODOLOGY

In February 2003, the Community Agency for Social Enquiry (C A S E) was commissioned by the Japan International Cooperation Agency (JICA) to conduct qualitative research in Johannesburg and Pretoria as part of the National Refugee Survey of African asylum seekers and refugees in South Africa for which Phase I has already been carried out. This report builds on the National Refugee Survey conducted by C A S E for UNHCR in Johannesburg and Pretoria from August to December 2002 and aims to supplement some of the main findings obtained through the survey.

A total of 10 interviews and 2 focus groups were conducted in Johannesburg and Pretoria. This represents a total of 35 people who were interviewed in both cities, namely 28 asylum seekers and refugees (14 men, 14 women), five service provider representatives and the two Heads of the Refugee Reception Offices. Focus groups were conducted with members of refugee organisations, namely, the Pretoria Refugee Forum and the Johannesburg Refugee Network in their respective cities.

The conclusions drawn in this report emanate from the responses obtained through the interviews and focus groups conducted. Since it is difficult to ascertain whether the respondents interviewed form a representative sample, the conclusions should be interpreted with caution. However, the comments and responses obtained could be indicative of concerns arising amongst asylum seekers and refugees in Gauteng. More in-depth research might be necessary to ascertain the extent of some of the problems raised throughout the study.

## MAIN FINDINGS FROM THE STUDY

### EXPERIENCES UPON ARRIVAL IN SOUTH AFRICA

#### *Arriving alone, with family, or friends?*

In the Phase I survey we found that the majority of respondents interviewed (67%) came to South Africa by themselves. However, we also found that female respondents and Rwandan respondents (both male and female) were significantly more likely than all other respondents to state that they had come to South Africa with family or friends. We relied on the focus groups and interviews with asylum and refugees to explore this finding in greater detail to be able to understand why these patterns seem to emerge.

There are two factors that seem to influence whether people leave their countries alone or with their friends and family, namely war and age of asylum seekers and refugees at the time of flight. The genocide in the Great Lakes region seems to have forced entire families to leave their countries, a factor that helps to explain why asylum seekers and refugees from Rwanda tend to come with their families. While refugees have also been fleeing from wars in countries like Angola and DRC, these have not tended to be wars of total annihilation. Instead, what seems to emerge from the interviews and focus group discussions is that in countries like Angola and DRC, young men are at risk, as they are wanted to join the military, and therefore more likely to flee. These impressions support our Phase I survey findings in that Angolan asylum seekers and refugees coming to South Africa tended to be young single men.

Age is the second factor that seems to influence whether people leave alone or with their friends and family. From the evidence gathered, young people tend to come alone, whereas older people, who are more likely to have children, tend to come with their families.

### *Places to stay upon arrival to South Africa*

Based on the Phase I survey findings, we found that upon arrival, respondents generally stayed with people whom they had some familiarity with. Half of the respondents in our sample stayed with “refugee friends”, while 16% stayed with relatives, and 10% stayed with people from their same country even though they did not know them. Only 4% of respondents stayed at a shelter when they first arrived.

Considering that very few people stayed at shelters upon arrival, we tried to find out the reasons for this. The limited number of asylum seekers who indicated that they stayed at shelters could imply that there is some form of network through which asylum seekers manage to get information about where to go for assistance upon arrival. The survey did not allow us to make any conclusions on this issue, so we explored this issue further in the interviews and focus groups. From these discussions, it seems that while asylum seekers and refugees might want to access shelters, this is often made difficult due to the lack of documentation or delays in procuring that documentation. Moreover, some participants also raised discrimination based on nationality as another concern.

The inability to access shelters becomes an even more serious problem when asylum seekers do not seem to have any information or contacts prior to coming to South Africa. From the different discussions held, it became apparent that very few asylum seekers had a sense of where to go prior to arriving in South Africa, except for those who indicated that they had relatives already in the country. From the study, there is very little evidence that networks exist, except possibly within the Somali community. Instead, what seemed to emerge is that asylum seekers or refugees who are already in the country often assist

newcomers, out of a sense of culture and humanity, even if they have never met them before.

## INTERACTION WITH THE DEPARTMENT OF HOME AFFAIRS

Given that every asylum seeker must interact with the Department of Home Affairs at different phases of their stay in South Africa, we interviewed the heads of the Refugee Reception Offices of the Department of Home Affairs in Johannesburg and Pretoria to discuss some of the main findings from the Phase I survey. More specifically, due to the fundamental link between documentation and being able to work and access a number of services, we focused on three main issues, namely: the work and study prohibition for asylum seekers and current developments around a court challenge on this prohibition; access to the Refugee Reception Offices because it arose as one of the main barriers amongst respondents in the Phase I survey; and a series of problems associated with the current documents that are being issued to asylum seekers and refugees, as these have an impact on their basic ability to sustain themselves and be integrated into South African society.

### *Work and study prohibition*

One important regulation which impacts directly on the ability of asylum seekers and refugees to sustain themselves financially is their inability, according to the Refugee Act of 1998, to work or study during the first six months after submitting their application for refugee status. The period of 180 days is the time prescribed by the Act for the Department of Home Affairs to adjudicate applications for asylum. Very recently, in December 2002, there was a court case in the city of Cape Town, which successfully challenged this regulation. Emanating from this case, a court order was issued which stated that the regulation stipulating the work and study prohibition was unlawful and that therefore the prohibition should be lifted immediately for all asylum seekers. However, based on the focus groups and interviews conducted, it would seem that the Refugee Reception Offices in Johannesburg and Pretoria are not implementing the court order, but rather considering the lifting of the work and study prohibition only after six months from the date of application. It is even questionable whether the Braamfontein office honours the lifting of the prohibition on work and study after six months.

In order to ensure that the court order on the lifting of the work and study prohibition is enforced, service providers such as JRS, Lawyers for Human Rights, Wits Law Clinic and Black Sash have begun a process of writing letters to the Refugee Reception Offices that asylum seekers take with them when they have to renew their permits, which demand that the offices implement the court order.

Another finding linked to the work and study prohibition is that the majority of the asylum seekers and refugees who were interviewed did not know about the recent court



challenge. Most of them knew about the prohibition on work and study for the first six months and their right to petition for it to be lifted after that period. However, in most cases, respondents felt that knowing about their right to petition for the prohibition to be lifted did not seem to make a difference because seemingly it is not being implemented by the Refugee Reception Offices.

### *Access to the Refugee Reception Offices*

In the survey conducted last year, we found that almost half of the 600 respondents in our sample experienced barriers with the Refugee Reception Offices. Of these respondents, 26% complained about being unable to gain physical access to the Refugee Reception Offices, while 19% were unable to get access due to quotas per country or per day of the number of asylum seekers and refugees allowed into the Offices.

Not being able to gain access to the Refugee Reception Offices presents a particularly critical problem to newcomers who need to obtain some form of documentation to prove that they can legally stay in the country. If they transit without any documents, they could risk being picked up by the police and imprisoned or taken to the Lindela Repatriation Centre. Interviewees and focus group participants repeatedly raised problems of access with the Refugee Reception Offices as a result of the quota systems that the Offices operated with. In particular, they described the hardships that they must endure in going back to the Offices repeated times, having to sleep outside to ensure that they are amongst the few who are allowed into the Offices, and fearing being picked up by authorities due to the lack of documentation. In our interviews with the Heads of the Refugee Reception Offices, they seemed to recognise the problem but also indicated that this was not the responsibility of the Department of Home Affairs.

Up until the end of last year, entities such as the Black Sash used to issue temporary letters to ensure that asylum seekers in Johannesburg who were unable to access the Braamfontein Refugee Reception Office would not be detained due to lack of documentation. However, the Department of Home Affairs instructed the Black Sash to halt the issuing of said letters. It further indicated that starting from the end of March 2003, the Braamfontein office would be increasing its intake of newcomers to deal with the problem. It remains to be seen whether this will resolve the access problem.

### *Problems associated with Documentation*

There are a number of problems associated with the types of documentation issued by the Department of Home Affairs to asylum seekers and refugees. Asylum seekers are issued Section 22 permits, A4 pieces of photocopied paper, with a picture on them and a number of renewal stamps. These permits have to be renewed either on a one-month or three-month basis. Due to their folding and constant renewal, these documents become torn

and frayed very quickly. Asylum seekers who become recognised refugees are issued with Section 24 permits that look very similar to the Section 22 permits, except that they are renewable on a 2-year basis.

Upon granting of status, refugees have to apply for a maroon hardcover identity document that has a picture, the person's details and gives each person a unique 13-digit bar-coded number. Even though this is a formal document that many refugees want, the Head Office of the Department of Home Affairs has issued very few maroon ID documents since their introduction in May 2001.

Besides being inadequate, the documents issued to asylum seekers and refugees, whether they take the form of a Section 22, Section 24 permit, or a maroon ID are not currently recognised by employers, banks and different government entities. Consequently, despite having documentation, asylum seekers and refugees interviewed described that they are blocked from securing employment or accessing services that would facilitate their integration and enable them to secure their chances at basic survival. In addition to being unable to access employment and open bank accounts, some respondents also added that they are unable to engage in other financial transactions, such as obtaining loans, credit or receiving money transfers, and that some universities do not recognise refugee documents as valid forms of identification.

Considering the recent court challenge that grants asylum seekers the right to work and study, there is a danger that this right could be meaningless, as long as asylum seekers are issued Section 22 permits that are of extremely short validity, look like forged pieces of documentation, and are hardly recognised by employers and other institutions such as banks, universities and government departments.

## ACCESS TO HEALTH AND EDUCATION SERVICES

We asked focus group participants and interviewees about their experiences in accessing health and education services. On healthcare, we asked specifically about access to emergency care, as well as primary health care. Most respondents interviewed did not seem to encounter problems in accessing primary health care, mostly local public clinics in their respective communities. However, they raised a number of problems in trying to access emergency health care. From the evidence gathered through the focus groups and interviews, it seems that asylum seekers and refugees are often at the mercy of individual doctors and nurses at public hospitals to gain access, often having to insist repeatedly to receive care. Problems of access are often compounded by the inability of asylum seekers and refugees to explain their ailments due to language barriers and the lack of knowledge amongst hospital administrative personnel about the forms of documentation that asylum seekers and refugees are issued.

On education, our focus was on issues of access of asylum seeker and refugee children to primary schools. From the evidence gathered, we found that a number of respondents were aware of the exemption policies that South African primary schools must have for children whose parents or guardians are unable to afford the school fees. This could probably be attributed to the workshops and information campaigns that implementing partners in both Johannesburg and Pretoria have conducted to make asylum seeker and refugee parents aware of their children's right to access primary education. However, succeeding in qualifying for an exemption depends on the individual schools. Moreover, since exemptions tend to be limited to school fees, they only partially assist with covering other costs, such as transport, uniforms and materials, associated with sending a child to school. Similarly, due to demand, assistance provided by entities such as JRS is also limited. Consequently, despite the partial financial respite that some asylum seekers and refugees are able to obtain, they also described some of the difficulties that they must endure in ensuring that their children are able to go to school. In addition to problems of funding and affordability of costs, some asylum seekers and refugees interviewed indicated that there continue to be problems with the documents that asylum seekers and refugees hold. In many cases, schools are not aware of these documents and their ignorance prevents children from being able to attend primary school.

#### ACCESSING LEGAL AND SOCIAL ASSISTANCE

With a few exceptions, most of the asylum seekers and refugees that we interviewed had heard of the main service providers in both Johannesburg and Pretoria, namely JRS; Wits Law Clinic and Black Sash in Johannesburg, and Lawyers for Human Rights in Pretoria. However, it is of concern that there are no formal referral systems for asylum seekers who are newcomers and who might require assistance. From our findings, the Refugee Reception Offices do not provide information to new arrivals in any standardised way and service providers do not have any formal systems for referral. Consequently, knowledge about where to go for assistance is left up to asylum seekers' themselves and their interactions with others.

Some focus group participants who knew about where to go for assistance indicated that there can sometimes be a trade-off between going to organisations for assistance and using that time to go out and try to make some money to be able to feed themselves or use the money that would be spent on transport to buy food. Having had the experience that they might be asked to come back again or be told that they will not be assisted, asylum seekers and refugees sometimes decide against making the effort to approach the different organisations. Alternatively, it could also be possible that asylum seekers and refugees are aware of the criteria used by service providers to provide assistance and therefore do not venture to visit service providers because they know that they will not be assisted.

One of the main issues that arose in the focus group discussions was the lack of clarity amongst asylum seekers and refugees regarding the mandates of some of the different organisations providing assistance as well as the criteria used to determine the provision of assistance. The issue about criteria emerged in relation to JRS, while the concern about mandates was mostly raised in relation to Lawyers for Human Rights and the UNHCR itself.

Despite efforts by JRS to communicate the criteria that they rely upon to provide assistance to asylum seekers and refugees, the study shows that some asylum seekers and refugees have difficulty in grasping how JRS makes decisions on who gets assistance, as well as how much assistance is provided. In addition to raising concerns about criteria, some asylum seekers and refugees also complained about the inadequate assistance that JRS sometimes offers and described tactics that some asylum seekers have adopted to ensure that they can access assistance, such as trying to pass as minors, or women indicating that they are alone when their husbands are actually with them here in South Africa.

With regards to Lawyers for Human Rights, a number of asylum seekers and refugees interviewed in Pretoria indicated that they had approached Lawyers for Human Rights to assist them with opening bank accounts, negotiating with the local Council for trading licences at flea markets, as well as obtaining travel documents. In some cases, LHR wrote letters as a way of facilitating access; however, respondents often argued that these did not make much of a difference. It is important to consider that it is very difficult for an organisation like LHR to be successful in writing letters when those who are reading the letters lack any knowledge of the problems at hand or have no guidelines on how to deal with the matters raised. While most respondents recognised the positive work that LHR has conducted on children's right to access primary school education, other focus group participants felt that they did not have any clarity as to the mandate of LHR and were clearly unaware of the work that LHR presently conducts.

In relation to UNHCR, different interviewees and focus groups participants often felt that the UNHCR, and in some cases its implementing partners, are not doing anything for asylum seekers and refugees. In this vein, a number of participants questioned UNHCR's mandate in South Africa, while others were concerned that UNHCR is not playing a *visible* role, through lobbying or litigation, in ensuring that asylum seekers and refugees are integrated into South African society. These negative perceptions about UNHCR seem to emanate from a lack of clear communication between UNHCR and asylum seeker and refugee communities on the mandate of UNHCR, lack of awareness of the ongoing negotiations that UNHCR holds with different government departments, as well as the different time frames with which asylum seekers and refugees on one hand and UNHCR on the other approach issues of implementation of refugee policies.

## AREAS OF POSSIBLE INTERVENTION

From the evidence gathered throughout this study, there are key issues that require immediate intervention. Many of these interventions, backed by findings from the Phase I survey, involve the Department of Home Affairs, especially as they concern the issuing of documents, the gaining of access to Refugee Reception Offices and the recognition of asylum seekers' right to work and study. However, there are other interventions by service providers as well as the UNHCR emanating from this current study that could be as important in ensuring that asylum seekers and refugees have access to assistance, and that they understand the work that the UNHCR is mandated to undertake and is currently undertaking. However, since these possible interventions arise from focus groups and interviewees with a limited number of asylum seekers and refugees, they should be regarded as possible suggestions that could lead to improvements in the provision of assistance and communication with asylum seeker and refugee communities.

### *Interventions involving the Department of Home Affairs*

- With regard to the issuing of documentation, the UNHCR should begin discussions with the Department of Home Affairs to consider issuing asylum permits for a period of six months. If the six months expire without the Department having made a decision on applications, asylum seekers should be issued with permits that are valid for a further period of six months. Extending the validity of the asylum permits would also lead to a reduction in the workload of the understaffed Refugee Reception Offices.
- In addition to extending the validity of the asylum permits, the UNHCR, jointly with its implementing partners, should strongly suggest that the Department formalises these forms of identification, by laminating them and putting anti-forgery marks or marks that can only be seen with UV light, so that they can be more easily accepted by different entities. The permits' current form as multiply-folded pieces of paper with a number of stamps on them do not facilitate asylum seekers' and refugees' access to employment or a number of basic social and financial services as these documents are often perceived to be fake.
- While the Department of Home Affairs is meant to expedite the issuing of formal maroon identity documents to recognised refugees with the support of the UNHCR, the Department should move as soon as possible towards acquiring the computer software necessary to generate these documents quickly, rather than continuing to rely on their manual production, as a matter of just administrative action. The lack of formal ID documents that are issued to refugees serves as an added barrier towards further negotiation on issues such as access to government grants, bank accounts and employment.

- With regards to the work and study prohibition and the recent court challenge in Cape Town, the UNHCR should engage in discussions with the Refugee Subdivision at the National Department of Home Affairs to ensure that the court challenge is honoured and that the prohibition is being lifted off every asylum seeker permit.
- The Department of Home Affairs, in conjunction with UNHCR and its implementing partners, must engage in a massive awareness campaign with government officials within key departments such as Health, Education, Labour and Social Development to make officials and administrative personnel working under these departments aware of what the different forms of identification issued to asylum seekers and refugees look like.
- The Department of Home Affairs must explore whether the Identification Act needs to be amended to ensure that maroon IDs are recognised as valid form of identification. It would seem that the only recognised form of identification at present is the green ID issued to South African citizens and permanent residents.

#### *Interventions involving service providers*

- Wits Law Clinic could benefit from a public information campaign to raise its profile amongst asylum seekers and refugees living in Johannesburg.
- Lawyers for Human Rights could benefit from the production of information booklets that can be given out to refugee organisations, as well as asylum seekers and refugees, which outline the activities that it undertakes and the issues that it provides assistance with.
- Wits Law Clinic, Lawyers for Human Rights and other legal implementing partners outside of Gauteng should make attempts to develop a coordinated litigation strategy focused on precedent setting cases and cases of public interest. The NCRA could provide a platform to develop this joint strategy.
- Despite its attempts to publish their criteria, JRS should provide information sheets that clearly outline their criteria for the provision of assistance. It would be useful for these information sheets to be distributed to refugee organisations in Johannesburg and Pretoria, Refugee Reception Offices, as well as other service providers to lessen any problems over clarity of criteria for assistance.
- The UNHCR, in partnership with all its implementing partners, should produce A3 laminated posters that outline the different service providers in Johannesburg

and Pretoria, with their contact details and consultation times, that can be posted at the Refugee Reception Offices in both Braamfontein and Marabastad. This will serve to inform newcomers who go to the Refugee Reception Offices about where they can go for assistance in a comprehensive way.

### *Interventions involving UNHCR*

- The UNHCR, jointly with its implementing partners, should develop information sheets in different languages as part of a public information campaign to inform asylum seekers of the court challenge over the work and study prohibition, providing court case and date, and encourage asylum seekers to demand that this be enforced at Refugee Reception Offices. In order to improve communication between themselves and asylum seeker and refugee communities, UNHCR should provide information brochures that outline UNHCR's mandate, who are its implementing partners, as well as when and where UNHCR holds consultations. These pamphlets could be distributed to all service providers, refugee communities, as well as Refugee Reception Offices. Some of these pamphlets could be turned into posters that can be put up at the Refugee Reception Offices in both cities. UNHCR indicated that it has a booklet that could serve this purpose and expressed that it could be made available throughout the course of this year.
- While aware of the negative experiences that UNHCR has encountered in working with refugee organisations, it should make an attempt to meet with representatives from these organisations to inform them of their mandate, outline the ongoing diplomatic work that they undertake with the South African government, and to express their willingness to work with them in an amicable manner. If UNHCR is unwilling to engage in this course of action, it should consider holding quarterly public meetings in both Johannesburg and Pretoria, jointly with its implementing partners, to keep asylum seekers and refugees informed of their work and of any updates on changes to the implementation of refugee policies.
- In the short-term, UNHCR should continue its task of prioritising specific areas of intervention with the government in order to ensure that they begin to bear fruit. If UNHCR, jointly with its implementing partners, does not engage in ongoing and focused lobbying and advocacy, it is unlikely that the South African government will assume responsibility over asylum seekers and refugees, as they, unfortunately, currently do not represent a priority.
- The UNHCR could work jointly with its implementing partners and the NCRA to coordinate campaigns amongst service providers around particular issues, such as

documentation, access to education and access to employment. This coordinated effort could possibly be used to obtain additional funding for campaigns and activities and could lead to greater success in tackling specific issues. Conscious focus on specific issues amongst service providers across the country could have a greater impact than the writing of letters to assist asylum seekers and refugees on a case-by-case basis.



# INTRODUCTION

---

## BACKGROUND TO THE STUDY

In February 2003, the Community Agency for Social Enquiry (C A S E) was commissioned by the Japan International Cooperation Agency (JICA) to conduct qualitative research in Johannesburg and Pretoria as part of the National Refugee Survey of African asylum seekers and refugees in South Africa for which Phase I has already been carried out. This report builds on the National Refugee Survey conducted by C A S E for UNHCR in Johannesburg and Pretoria from August to December 2002. Phase I of that survey focused on gathering quantitative data in Johannesburg and Pretoria through a survey of 600 asylum seekers and refugees. Unlike the survey, this report provides findings gathered from a series of qualitative interviews and focus groups conducted in Johannesburg and Pretoria during February and March 2003. This qualitative data was sought in order to be able to supplement and understand some of the main findings obtained through the survey and to provide greater detail to developmental initiatives that need to be undertaken.

## METHODOLOGY

A total of 10 interviews and 2 focus groups were conducted in Johannesburg and Pretoria<sup>1</sup>, this represents a total of 35 people who were interviewed in both cities, namely 28 asylum seekers and refugees (14 men, 14 women), five service provider representatives and the two Heads of the Refugee Reception Offices. Focus groups were conducted with members of refugee organisations, namely, the Pretoria Refugee Forum and the Johannesburg Refugee Network in their respective cities. In addition, separate interviews were conducted with Angolan refugees in both Johannesburg and Pretoria, as this community was not actively represented in these organisations, despite their important numbers in Gauteng<sup>2</sup>. Similarly, an interview was conducted in Johannesburg with the Executive Committee of the Horn of Africa Society, a Somali-based refugee organisation that provides social assistance to Somalis in both Johannesburg and Pretoria. These interviews and focus groups were semi-structured and conducted using interview guidelines that facilitated comparison of responses across discussions.

In addition to conducting interviews with refugee organisations and asylum seekers and refugees themselves, a series of interviews were conducted with the main service

---

<sup>1</sup> For a breakdown of focus group participants and interviewees, please refer to Appendix A.

<sup>2</sup> While there has been an official end to the war in Angola, no repatriation of Angolans from South Africa has begun. Currently, UNHCR is promoting tripartite agreements in relation to voluntary repatriation of Angolans. Agreements have been reached with Zambia, Namibia and the DRC. Negotiations with South Africa and Botswana have been initiated. The UNHCR foresees that the process of return could begin as early as June 2003.

providers in Johannesburg and Pretoria, namely, Wits Law Clinic, Lawyers for Human Rights, Jesuit Refugee Services and Black Sash. While not a service provider, an interview was also conducted with representatives from the National Consortium for Refugee Affairs (NCRA), a national voluntary network of major role players in refugee issues dedicated to the monitoring of policies, advocacy, lobbying and research. Besides interviewing service providers, interviews were conducted with the heads of the Refugee Reception Offices in Braamfontein and Marabastad to obtain their opinion on a number of issues and problems raised in the survey by asylum seekers and refugees, based on their interactions with the Department of Home Affairs. A meeting was also held with representatives from the UNHCR to obtain their views on a number of salient issues.

A set of more targeted questions from those posed to asylum seekers and refugees was asked to service providers and the heads of the Refugee Reception Offices.

The conclusions drawn in this report emanate from the responses obtained through the interviews and focus groups conducted. Since it is difficult to ascertain whether the respondents interviewed form a representative sample, the conclusions should be interpreted with caution. However, the comments and responses obtained could be indicative of concerns arising amongst asylum seekers and refugees in Gauteng. More in-depth research might be necessary to ascertain the extent of the problems raised throughout the study.

## **STRUCTURE OF THE REPORT**

This study builds on the report for Phase I of the National Refugee Survey. As such, it contains similar headings as those contained in the survey report. However, unlike the survey report, it is focused on salient issues emanating from the survey report and therefore does not reproduce all of the sections contained in the survey report. Instead, it contains the following sections:

- ◆ Experiences upon arrival in South Africa
- ◆ Interaction with the Department of Home Affairs
- ◆ Access to health and education services
- ◆ Available types of assistance, and
- ◆ Areas requiring intervention.

Where necessary, throughout the report, mention is made of Phase I of the National Refugee Survey conducted between August and December 2002 in order to give context to the issues raised.

# EXPERIENCES UPON ARRIVAL IN SOUTH AFRICA

---

In Phase I of the National Refugee Survey we asked asylum seekers and refugees a series of questions about their date of arrival into South Africa, whether they came to South Africa alone or accompanied by family and/or friends, about where they stayed when they first arrived and also how they found out about where to stay. These questions yielded a series of interesting findings. However, it became apparent that some of those findings required further investigation and probing to ensure their accuracy and meaning. In particular, we realised that further research was required to understand why asylum seekers and refugees of certain nationalities tend to come alone while others come with friends and family. Similarly, we tried to obtain greater details about the places where asylum seekers stayed upon arrival and how they came to choose those particular places. It is for this reason that this section of the report focuses primarily on the two aforementioned issues.

## ARRIVING ALONE, WITH FAMILY OR FRIENDS?

In the Phase I survey we found that the majority of respondents interviewed (67%) came to South Africa by themselves. However, we also found that female respondents and Rwandan respondents (both male and female) were significantly more likely than all other respondents to state that they had come to South Africa with family or friends. We relied on the focus groups and interviews with asylum and refugees to explore this finding in greater detail to be able to understand why these patterns seem to emerge.

There are two factors that seem to influence whether people leave their countries alone or with their friends and family. The first of these is linked to the impact of war, which has had serious repercussions, especially for asylum seekers from Rwanda and Burundi. As focus group participants expressed this:

*You know the situation in Rwanda, there is a genocide. People leave the country in a hurry and become refugees in a country like Congo. Once they arrive in Congo, there is another war and there are no Rwandans. There are 1 million refugees in Congo. Everyone leaves [Rwanda, female, FG Jhb].*

*What is happening in Rwanda and Burundi, because I am from Burundi, is that there is an ethnic conflict where everyone gets killed. There is no choice, old or young. That is why you find that everybody is moving [Burundi, female, FG Jhb].*

Similarly, as a DRC participant added:

*...the problem of Rwanda is a bit different from that of Congo and Angola. It is a bit complicated because it is about clans. In Rwanda when Hutus and Tutsis persecute each other, it starts from the grandparents all the way down to small children. When the Hutus knew that it was the Tutsis persecuting people, the Hutus knew that they all had to leave [DRC, female, FG Jhb].*

The genocide in the Great Lakes region seems to have forced entire families to leave their countries, a factor that helps to explain why asylum seekers and refugees from Rwanda tend to come with their families. While refugees have also been fleeing from wars in countries like Angola and DRC, these have not tended to be wars of total annihilation. Instead, what seems to emerge from the interviews and focus group discussions is that in countries like Angola and DRC, young men are at risk, as they are wanted to join the military, and therefore more likely to flee. These impressions support our Phase I survey findings in that Angolan asylum seekers and refugees coming to South Africa tended to be young single men. As one Angolan interviewee explained this:

*In Angola, they want young people between the ages of 18 and 30 to go and fight, so they face higher risks. People from this age group need to leave. They often pay a lot of money so that they can go out. Most of them are single, so they have no responsibility about leaving people behind” [Angola, male, Interview Jhb].*

Similarly, another Angolan interviewee had this to say about what young men face:

*From the age of 20, you can't study and can't work in Angola. The police are in the streets waiting for you, they fetch you to go and fight at home. The Angolan government is working closely with the Namibian government and they try to get the young to go and fight. People need to go elsewhere because they are not safe there [Angola, male, Interview Pta].*

The above quotes illustrate that young Angolan men are forced to leave, even though this can often prove to be a difficult task. However, it is not only men who flee countries like Angola and DRC. People who have families, particularly children, often split up, as one of the partners leaves the country before the other. As one Angolan interviewee explained, it is very difficult for women and children to be able to survive without any food for a period of 3 or 5 days. For this reason, plans are often made for women to be able to get out. Since they do not face the problem of being drafted to fight, women have an easier time leaving the country. However, this separation can often be traumatic. As a couple of participants indicated:

*Sometimes, a wife and children leave; they go elsewhere. The husband then leaves, but doesn't know where his wife is. He lives alone without knowing where*

*the rest of the family is. Once he gets into another country, he asks other refugees to see if they know where his wife is [Angola, male, Interview Jhb]*

*In the east of Congo, men run away from their villages, because they are being killed or taken by force to join the military, so the women and children are left alone at home. Then they decide to leave and that is why they are coming to South Africa. I met some of these women, from Mvira, one of them doesn't know where her husband is, whether he died or is alive somewhere [DRC, female, FG Pta].*

Age is the second factor that seems to influence whether people leave alone or with their friends and family. From the evidence gathered, young people tend to come alone, whereas older people, who are more likely to have children, tend to come with their families. In the words of one participant,

*In general, one can say that young women come alone, but women who are mothers often come with their children. Or in some cases, the husbands are here and then the wives come later to join them [DRC, female, FG Jhb].*

The joining up of families also seems to be the practice with some Somali refugees. As one interviewee put it,

*People who came here six years ago or so had their families come and join them, since they are established now. It depends on the class of people – those who are prosperous think of bringing their families down. [Somalia, male, Interview Jhb]*

Speaking specifically about the impact of age, an Angolan interviewee explained:

*People who are 30 years or older have more responsibilities. It is much harder to leave the country. Young people can handle leaving [Angola, male, Interview Jhb].*

Moreover, it seems that in some cases, older families will not travel extensive distances. In the words of an Angolan refugee,

*There are old and young families who just try to get in to the closest border, like Zambia. Young people look for greener pastures and therefore come here [Angola, male, Interview Pta].*

Since the average age for asylum seekers and refugees interviewed during the Phase I survey was 30 years, it is not surprising that a large proportion of them are coming to South Africa on their own, unaccompanied by friends or family.

## PLACES TO STAY UPON ARRIVAL TO SOUTH AFRICA

Based on the Phase I survey findings, we found that upon arrival, respondents generally stayed with people whom they had some familiarity with. Half of the respondents in our sample stayed with “refugee friends”, while 16% stayed with relatives, and 10% stayed with people from their same country even though they did not know them. Only 4% of respondents stayed at a shelter when they first arrived.

Considering that very few people stayed at shelters upon arrival, we tried to find out the reasons for this. This could imply that there is some form of network through which asylum seekers manage to get information about where to go for assistance upon arrival. The survey did not allow us to make any conclusions on this issue, so we explored this issue further in the interviews and focus groups.

When we asked interviewees and focus group participants about where they had stayed when they first arrived, very few indicated that they had stayed at shelters. Some of them stayed with relatives, at churches, others outside - be it at parks or under bridges -, while a few received help with accommodation for their first 3 months from Jesuit Refugee Services. This seems to confirm our survey finding that very few people stay at shelters. When asked specifically if they had ever approached any of the *public* shelters, none of the refugees knew about them and therefore never thought about approaching them for assistance. However, it did become apparent that some asylum seekers go to churches for assistance with shelter, particularly churches that cater to particular African communities and share the different languages spoken by asylum seekers. Yet, access to these shelters is not easy for a number of reasons. For instance, focus group participants in Pretoria argued:

*...[I]t is not easy to get those shelters, I think people sometimes they would like to stay in shelters but there is no access. They don't speak English... My friends used to go to that church (Doxa Deo), but they've stopped taking people... We went to speak to the Pastor for Doxa Deo and asked - because you know sometimes we are facing this kind of a problem of where people can sleep - Can you please make a connection there in the shelters so that we can send people? The pastor said: "No, we have a restriction". They take normally the citizens of South Africa [Rwanda, male, FG Pta]*

*It is a very long process to get into a shelter...it is difficult to find someone who can easily access a shelter, because those ladies I met, even the minors, they first came to Lawyers for Human Rights, they must get the papers and they must go to JRS and then come back. They are doing some up and downs, maybe after one month they will approve your application and they send you to a shelter, it is not so easy. They can't just go. So that time when they are making those ups and downs, they can live with someone, maybe they are sharing, they are sleeping on*

*the floor ...* [DRC, female, FG Pta]

As the above show, the interviews and focus group discussions served to highlight the fact that there are a number of problems with gaining access to shelters. In particular, documentation presents a specific barrier. In order to ensure that they provide services to genuine asylum seekers, service providers such as Jesuit Refugee Services often ask asylum seekers requesting assistance to present their Section 22 asylum permits. However, as will be discussed later on in this study, asylum seekers often have to wait for days or weeks before they are able to access the Refugee Reception Offices to have the permits issued. The lack of easy access to documentation acts as an important constraint on asylum seekers who require assistance with shelter.

This becomes an even more serious problem when asylum seekers do not have any information or contacts prior to coming to South Africa. From the different discussions held, it became apparent that very few asylum seekers had a sense of where to go prior to arriving in South Africa, except for those who indicated that they had relatives already in the country and Somali respondents<sup>3</sup>. The majority of interviewees and focus group participants argued that often people come here without knowing anyone or having very limited information. In fact, when we asked whether people had information as to where to go before arriving in South Africa, one focus group participant went as far as saying that:

*I didn't know at all. If I had known, I wouldn't have come to South Africa. This country doesn't care about refugees. No one is welcome here* [DRC, female, FG Jhb].

The existence of possible networks was discussed in detail given the finding that half of the respondents in the *Phase I* survey indicated that they had stayed with refugee friends – something which implied that people had acquaintances upon arrival. However, what became apparent is that asylum seekers or refugees who are already in the country often assist newcomers, out of a sense of culture and humanity, even if they have never met them before. This is illustrated in the quotes below.

*People help each other. You can't run away from that. You help each other* [Angola, female, Interview Pta].

*The people who accommodate us, they don't know us but they feel that they need to assist people from their same country if they have nowhere else to go* [Angola, male, Interview Jhb].

*When we say people do not go to shelters, there are people who help. I met one lady with a flat, there is one bedroom inside but there are about 17 people in that flat. We are Congolese, when someone comes from Congo who is a newcomer, we won't let him go and sleep out. When he comes, he will be the 18th person in that flat, even if the flat is very small. But we are going to receive them [DRC, female, FG Pta].*

Sometimes this assistance with shelter by others is not as voluntary as it is often portrayed, as can be ascertained from the following.

*You go to JRS and they don't want to assist someone, so the people are obliged because you can't throw someone on the street. You tell the newcomer to come and sleep somewhere in the sitting room and to try to sleep. We are sharing those places and you see overcrowding in the flats [Rwanda, male, FG Pta].*

*...[T]hat is from their culture, African culture, they are used to share. If you find somebody on the streets suffering, you have to receive him, that is the culture. So you can't let somebody live like that. What we don't understand is that when you take that person to JRS, they will tell you no, keep him [Burundi, male, FG Pta].*

The quotes above indicate that asylum seekers and refugees, despite living in dire conditions, often have a sense of duty to assist people who need assistance, even if they do not know them. There are also instances when members or leaders of particular communities are asked by Jesuit Refugee Services to assist newcomers in finding accommodation. However, this sometimes presents a problem because asylum seekers or refugees who are asked to assist do not seem to be given financial assistance to support the newcomers.

*Sometimes they [JRS] send people to me for three days or one week but they don't give anything. Sometimes they give R300 for one month, but after that they don't do anything [Burundi, female, FG Jhb].*

*JRS, they were calling me sometimes, you know there is somebody here, please come and collect him. Myself I don't have money to feed these people. They say: "No, please, you need to help us". So I say, "You are an organisation, how can it be me who helps you?" [Burundi, male, FG Pta]*

What the above quotes also show is that entities such as JRS have limited funding and therefore are unable to provide adequate assistance. However, it would be of concern if reliance on asylum seekers and refugees already in the country becomes a regular way of

---

<sup>3</sup> In our discussion with representatives from the Horn of Africa Society, they indicated that it is quite common for Somalis to have contacts prior to coming to South Africa in order to gather information about the living situation. This information tends to be



dealing with limited accommodation assistance, especially since they already face very difficult survival conditions.

---

communicated via email or telephone.

# INTERACTION WITH THE DEPARTMENT OF HOME AFFAIRS

---

Given that every asylum seeker must interact with the Department of Home Affairs at different phases of their stay in South Africa, we interviewed the heads of the Refugee Reception Offices of the Department of Home Affairs in Johannesburg and Pretoria to discuss some of the main findings from the Phase I survey. Coupled to this, we also asked interviewees and focus group participants a series of questions linked to their experiences with the Refugee Reception Offices<sup>4</sup>. More specifically, due to the fundamental link between documentation and being able to work and access a number of services, this section focuses on three main issues. Firstly, we address the work and study prohibition for asylum seekers, current developments around a court challenge on this prohibition, as well as the implementation of the court challenge by the Refugee Reception Offices. Secondly, we target issues of access to the Refugee Reception offices because it arose as one of the main barriers amongst respondents in the Phase I survey and also has a direct impact on access to documentation. And thirdly, we discuss a series of problems associated with the current documents that are being issued to asylum seekers and refugees, as these have an impact on their basic ability to sustain themselves and be integrated into South African society.

## WORK AND STUDY PROHIBITION

One important regulation which impacts directly on the ability of asylum seekers and refugees to sustain themselves financially is their inability, according to the Refugee Act of 1998, to work or study during the first six months after submitting their application for refugee status. The period of 180 days is the time prescribed by the Act for the Department of Home Affairs to adjudicate applications for asylum. However, based on Clause 3(3) to the Regulations to the South African Refugee Act (No. R366), applicants are allowed to challenge this prohibition if the period of six months expires without the Department making a decision on an application. As stated in Clause 3(3) of the regulations:

*“If the Department fails to adjudicate a case within 180 days, excepting delays caused by the applicant without just cause, the applicant will be permitted to apply to the Standing Committee for work or study authorisation or relief from other conditions that may have been imposed by the Standing Committee”.*

---

<sup>4</sup> The Refugee Reception Office in Braamfontein employs approximately 21 people, 4 of which are Refugee Status Determination Officers (RSDOs) 11 Refugee Reception Officers, and 4 ancillary staff (clerks and cleaners). In addition, the Office employs 4 volunteers who get paid on a weekly basis, an amount of R40/day. The Office in Marabastad has a total of 7 people, namely 3 Refugee Reception Officers (RROs) and 4 RSDOs.

Very recently, in December 2002, there was a court case in the city of Cape Town<sup>5</sup> which successfully challenged this regulation. Emanating from this case, a court order was issued which stated that the regulation stipulating the work and study prohibition was unlawful and that therefore the prohibition should be lifted immediately for all asylum seekers. Even though the case took place in the city of Cape Town, the court order has effect throughout the country because the regulation that was challenged has national applicability<sup>6</sup>. However, despite the existence of this court order, there is evidence that asylum seekers and refugees do not know about it. Even those who know about it and have asked the Refugee Reception Offices in Johannesburg and Pretoria to lift the prohibition have not succeeded because the Refugee Reception Offices are not currently honouring the court order. To have a sense of what the Department of Home Affairs is doing in relation to the court order, we asked both the heads of the Refugee Reception Offices, as well as service providers, asylum seekers and refugees about their views on this issue.

The majority of the asylum seekers and refugees who were interviewed did not know about the recent court challenge stating that asylum seekers have the right to work and study as soon as they apply for status. Most of them knew about the prohibition on work and study for the first 6 months and their right to petition for it to be lifted after that period. However, in most cases, respondents felt that knowing about it did not seem to make a difference. As one woman from the DRC who tried to apply explained it:

*I came here to JRS. JRS gave me a lawyer who gave me a letter to go to Home Affairs. I went with that letter to Home Affairs, and with everything that DHA asked for. I went into an office, the lawyer explained that I was a mother who needed to work. The official from Home Affairs indicated that this explanation needed to be included in the paper. I did that. I went back and they gave me all the letters and the paper and they had done nothing [DRC, female, FG Jhb].*

*I know about it but I never asked for it because it takes too much time and you have to pay [Angola, female, Interview Jhb].*

*There is also another problem. What I found out at Home Affairs, especially the Braamfontein office, what they are doing, when you send people in order to lift up the prohibition, what they are going is that they cancel the first permit, they give the person the new permit, saying that they can't find anything in their computer system. They give them a new permit with the prohibition. This means that the person has to wait for another six months. It doesn't work [DRC, male, FG Jhb].*

---

<sup>5</sup> *MM Watchenuka and Cape Town Refugee Forum v The Minister of Home Affairs, the D-G of Home Affairs and The Chairperson of the Standing Committee*, Case Number 1486/02 in the CPD.

The above comments tend to confirm the findings from the survey which show that over half of the asylum seekers who applied to have the work and study prohibition lifted did not succeed.

Similarly, someone who was aware of the court challenge in Cape Town, argued:

*Yes, I know the story but when you go now [to the Braamfontein Reception Office], Mr. Ngozwana will tell you that he doesn't know anything about this. These are the major difficulties that we are facing everyday. In South Africa, wherever you are, they just call you kwerekwere, from these words we are no longer human beings [DRC, male, FG Jhb].*

In addition to asking asylum seekers and refugees about their opinions, we talked to the heads of the Refugee Reception Offices in Johannesburg and Pretoria to understand what is the current status of the court order around the work and study prohibition.

According to Mr. Ngozwana, head of the Refugee Reception Office in Braamfontein and Ms. Mahlangu, head of the Refugee Reception Office in Pretoria (Marabastad), the Department of Home Affairs does not voluntarily provide information to asylum seekers regarding the work and study prohibition<sup>7</sup>. Information is provided only if asylum seekers ask specifically about this issue. This presents a large problem, as it requires prior knowledge by asylum seekers, which they often have no access to.

When asked about the consequences of the court challenge in Cape Town for the elimination of the work and study prohibition, Mr. Ngozwana indicated that

*There was a circular from the Department on the court challenge in Cape Town. The circular stated that if 6 months have expired without the department having finalised an application, we will change the conditions if the person asks for it. As of now, we do not lift the prohibition in a blanket manner. We still wait for the 6 months. It is not illegal for us to have those prohibitions. We can only change it after 6 months. The circular subsequent to that does not specify that newcomers' conditions should be changed. The asylum seeker has to ask for it. Then we delete it from the refugee system.*

Similarly, Ms. Mahlangu indicated that “at present, the office is granting work and study to new arrivals, but only after 6 months”.

From the comments above, it would seem that the Refugee Reception Offices are not implementing the court order, but rather considering the lifting of the work and study

---

<sup>6</sup> Interview with Jacob van Garderen, Lawyers for Human Rights, Pretoria, 12/03/03.

prohibition only after 6 months from the date of application. It is even questionable whether the Braamfontein office honours the lifting of the prohibition on work and study after six months. When asked about why asylum seekers who have applied for the prohibition to be lifted, based on the Phase I survey findings, have not succeeded, Mr. Ngozwana had the following to say:

*If there is a need to assist an asylum seeker, the conditions are changed by the Standing Committee. The problem is that people from Asian countries who are economic migrants are using this to get a work permit. The Standing Committee changed the conditions and decided to finalise applications instead.*

**Q:     *Isn't this unlawful?***

*We do discriminate. It is unlawful, but if it is operationally good, I see no problem in discriminating. We discriminate by taking women and children first, and this is seen as positive discrimination.*

It is of grave concern that the Braamfontein Refugee Reception Office seems to be applying its own rules and arguing that a unilateral change of the Refugee Act regulations constitutes an act of positive discrimination. The Standing Committee does not have the power to change regulations and decide that instead of lifting the work and study prohibition they will move to finalise applications. The finalisation of applications can often take a very long time, thus continuing to deny asylum seekers the basic right to survive for an even longer period of time.

In order to ensure that the court order on the lifting of the work and study prohibition is enforced, service providers such as JRS, Lawyers for Human Rights, Wits Law Clinic and Black Sash have begun a process of writing letters to the Refugee Reception Offices that asylum seekers take with them when they have to renew their permits, which demand that the offices implement the court order. It seems that this practice has had limited success. However, according to a representative from the Wits Law Clinic, it might be necessary to enforce this court order through the High Court, despite the fact that the regulation challenged applies to asylum seekers nationwide, to obtain a ruling that states that the court order itself has national applicability in order to ensure that Home Affairs abides by this decision<sup>8</sup>. One of the drawbacks for the Wits Law Clinic is that it does not have the litigation funds necessary to be able to take the case to court. There is a possibility that Lawyers for Human Rights in Pretoria might pursue this case.

---

<sup>7</sup> Interview with Mr. Ngozwana, Head, Refugee Reception Office, Braamfontein, 19/02/03; Interview with Ms. Mahlangu, Head, Refugee Reception Office, Marabastad, 12/02/03.

<sup>8</sup> Interview with Abeda Bhamjee, Refugee Legal Counsellor, Wits Law Clinic, 11/03/03.

## ACCESS TO THE REFUGEE RECEPTION OFFICES

In the survey conducted last year, we found that almost half of the 600 respondents in our sample experienced barriers with the Refugee Reception Offices. Of these respondents, 26% complained about being unable to gain physical access to the Refugee Reception Offices, while 19% were unable to get access due to quotas per country or per day of the number of asylum seekers and refugees allowed into the Offices.

Not being able to gain access to the Refugee Reception Offices presents a particularly critical problem to newcomers who need to obtain some form of documentation to prove that they can legally stay in the country. If they transit without any documents, they could risk being picked up by the police and imprisoned or taken to the Lindela Repatriation Centre.

Interviewees and focus group participants told several stories about the hardship that they must endure in order to gain access to the Reception Offices. For instance, one woman from the DRC spoke at length about her attempts to get all ten of her children included in her application for refugee status at the Braamfontein Office.

*When I arrived, I obtained my papers two months after. But I only received papers for myself, not for my children. I live in Hillbrow. There are military people and police everywhere. Therefore I couldn't go anywhere with my children. I walked around with a paper from the Human Rights Committee saying that I was trying to get papers for my children. I couldn't even send any of my children to buy anything; I had to accompany them everywhere. I was obliged to ask each of my children to sleep outside in front of the door [of the Refugee Reception Centre] to get their papers. [Home Affairs] harassed me because my daughter had applied on her own. I slept outside Home Affairs, with all my children, when it was really cold for three days. On the third day I managed to be seen. Then the problem was that the computer was not working... [DRC, female, FG Jhb]*

Similar problems are experienced at the Refugee Reception Office in Marabastad. As some focus group participants commented,

*There is a list, they [Reception Office in Marabastad] are following a list. With a list of about 100 people, they can take about 10 once. Every Monday they take people, you must be there early. If you come at 6 o'clock you will be maybe the 20th person. You better sleep there so you are going to be amongst the first ones [Burundi, male, FG Pta].*

*Those people are organised, even if you come today you will find a long list. You can be the first, you go there and they will say there is a list. We register you, and*

*you'll have to come and sleep here on Friday, Saturday and Sunday. If you don't come on Monday they take out your name [Rwanda, male, FG Pta].*

*I think it is a good thing to do it by quota, but what people are saying, I don't know if it is true, is they will only take 4 people on Monday for Congo, but they had maybe 6 or 10. They take only a few... I think this is very easy, why can't they take... let's say 10 people from the Congo once, and then take 2 or 3 from Burundi because they are very few? It means what they are doing is only to collect the money. They know that as long as you are going there, you will be tired and you think how can I get the papers easily. So they force you to bribe [Burundi, male, FG Pta].*

*If you can't afford to pay that money you'll have to stand on a queue and wait for a long time [Congo Brazzaville, male, FG Pta].*

While there is a quota system at Marabastad, asylum seekers and refugees do not seem to know how the system works, except the fact that if people are willing to pay this can facilitate access to the Office. When we asked Ms. Mahlangu, head of the Office in Marabastad, how the intake of applications was structured, she indicated that:

*We take applications divided into regions in order to give a chance to other countries. If the Office is taking too many applications from one country, then we balance it out with other countries.*

While the above agrees with what asylum seekers and refugees expressed, it is not clear how the Office decides what countries to take in and not take in. It would seem that if there is an influx of people from a particular country and very few from another country, it does not affect how they decide on the division of regions.

Similarly, when we asked Mr. Ngozwana, from the Braamfontein Office to address the problems of access to the Office, he argued that:

*People who can't have access to the office is not a matter for Home Affairs. Due to the socio-economic difficulties, there are a number of factors that contribute to this problem. South Africa is not minding its borders as it used to. If access to the system were to be available before people enter the Republic, then it would be easy to fast track cases. There should be RSDOs and RROs at the borders to process cases – this would deter economic migrants. Manifestly unfounded cases could be rejected there and then. Then we should have a camp...The UNHCR could offer assistance. We would be able to deal with people in those holdings right away. If then people are arrested without papers, then we can them directly to Lindela and deal with the influx.*

The above response does not address the current reality of how the system operates. The system is not currently set up in border areas, but rather in the middle of an urban centre where police do not know the difference between a refugee and an undocumented migrant. Yet, the response implies that the problem is beyond the ambit of Home Affairs because “South Africa is not minding its borders as it used to” and therefore the Department is not concerned with what might happen to asylum seekers who are unable to access the Office simply to apply for status<sup>9</sup>, thus failing to obtain any kind of proof for authorities such as the South African Police Services, that they are trying to apply for asylum.

## **PROBLEMS ASSOCIATED WITH DOCUMENTATION**

There are a number of problems associated with the types of documentation issued by the Department of Home Affairs to asylum seekers and refugees. Asylum seekers are issued Section 22 permits, A4 pieces of photocopied paper, with a picture on them and a number of renewal stamps. These permits have to be renewed either on a one-month or three-month basis. Due to their folding and constant renewal, these documents become torn and frayed very quickly. Asylum seekers who become recognised refugees are issued with Section 24 permits that look very similar to the Section 22 permits, except that they are renewable on a 2-year basis.

Upon granting of status, refugees have to apply for a maroon hardcover identity document that has a picture, the person’s details and gives each person a unique 13-digit bar-coded number. These documents are composed of two laminated hard covers with no pages inside. Even though this is a formal document that many refugees want, the Head Office of the Department of Home Affairs has issued very few maroon ID documents since their introduction in May 2001. Results from our Phase I survey showed that even though 45% of the sample was composed of refugees, only 1% of these respondents had been issued with the maroon refugee ID documents. In our interview with Ms. Mahlangu, she indicated that there have been a number of printing problems with these documents and they are currently being produced manually<sup>10</sup>. Due to a shortage of person power, the Head Office cannot keep up with the applications that are received from the five Refugee Reception Offices across the country<sup>11</sup>.

Asylum seekers interviewed indicated that they had experienced a number of problems specifically with Section 22 permits. As one focus group participant expressed this:

---

<sup>9</sup> In our interview with representatives from the Horn of Africa Society (30/03/03), one of its members indicated that he has established contacts with Lindela officials over time. In the case that a Somali gets arrested for lack of documentation, he is often contacted to ensure that the person is released from Lindela. While this is a coping strategy that seems to work for the Somali community, it is unsustainable, as it relies on personal contacts and not on matters of principle.

<sup>10</sup> Interview with Ms. Mahlangu, Head, Refugee Reception Office, Marabastad, 12/02/03.

<sup>11</sup> According to information received from the UNHCR, for the period April 2001-December 2002, a total of 1,110 ID documents were issued to families, not individuals. The breakdown of documents issued is as follows: Johannesburg: 307, Pretoria: 245, Durban: 368, Cape Town: 168, Port Elizabeth: 22.



*If they could do laminated cards it would be better because it would last longer. With this paper, one can drop it in water, wash it when doing laundry and even the police also rip them up. If they were laminated this would be more difficult [DRC, female, FG Jhb].*

*Section 22 permits make things difficult. Let's say you want to apply for a job, you can submit your CV and everything is correct, but the day you go for an interview they would like to see an ID, not a paper, they would like an ID. And then worse again is that by the time you show your paper, the paper only has validity of one month or two weeks, so for them...I mean it is unbelievable to see somebody who just got the permit of one month. Maybe the job... Maybe you were supposed to sign a contract of two years. So they are not sure whether you are going to stay in the country for the next two years or not. So it is compromising and messes up everything [Congo Brazzaville, male, FG Pta].*

*The problem with this paper is that as soon as the police see it, they know you are a foreigner. Even with the refugee ID, when employers see it they still ask for the green ID, so it doesn't make a difference. It is just a paper that will stop you from being arrested but it is not possible to get a job with that paper, it is not possible because people discriminate against it [Cameroon, male, FG Jhb].*

*I am studying to be a primary school teacher. I have gone to Pretoria, to SAQA to certify my diploma. I am going and looking for a job everywhere but it is not easy. If I go somewhere and they open this paper, they say, "No, this paper is not real. If you get a green ID, it's ok". But I explain to them that no, I don't have a green ID. It is not easy to get a job here if you get a refugee paper... I have a 3-month document. If maybe DHA could do something about this, because I am suffering and I am not the only one. I am looking everywhere; I have been here for five years. I am studying for primary education. I have a drivers' licence but I don't have a job and I have children [Rwanda, female, FG Jhb].*

The problems with access to employment outlined above are likely to increase, especially with the recent court challenge that grants asylum seekers the right to work as soon as they apply. It is likely that the right to work and study will be meaningless, as long as asylum seekers are issued Section 22 permits that are of extremely short validity, look like forged pieces of documentation, and are hardly recognised by employers and other institutions such as banks, universities and government departments.

Considering that the regulations to the Refugee Act grant the Department of Home Affairs a period of six months to finalise applications for refugee status, it is difficult to understand why the Department continues to issue Section 22 permits for one-month or

three-month periods, especially when the Department complains of shortages of personnel. When we posed this question to Ms. Mahlangu, she answered as follows:

*This was a terrible mistake when the Act was approved. If the Refugee Reception Offices were situated at the borders, then the screening could be done on the spot, thus allowing in those who qualify and rejecting immediately those who do not. Once someone is accepted in, we would issue short-term permits that would say report to this or that office. The regulation as it stands does not keep in mind the reality in the offices. The issuing of permits for a short time doesn't work with offices being located in town<sup>12</sup>.*

Despite the fact that some Home Affairs officials recognise that the current regulation is a “mistake” and designed to operate with a non-existent refugee reception regime located at the borders, this regulation has been in force for the last three years without any attempts by the Department to change it.

But problems are not only prevalent with short-term permits. Numerous refugees interviewed described the problems that they face with Section 24 permits, as well as with the formal maroon ID documents that are valid for a period of two years. Most of these problems centre on the inability to open bank accounts and the denial of employment opportunities.

#### OPENING BANK ACCOUNTS

A number of refugees interviewed indicated that they had tried to open bank accounts, but were unsuccessful in their attempts. The inability to open a bank account often makes refugees extremely vulnerable, as they are forced to carry or keep cash with them. As a number of refugees commented,

*I remember once I went to Standard Bank, I wanted to open a bank account. I first went to the ground floor to ask for the requirements, they said if you are a foreigner, you can bring your passport or you can bring whatever from the Home Affairs and you go to our office. I went with my refugee passport and my status. I met a guy there who said Standard Bank is only for South Africans and you must have the green ID book. I gave them the ID number given by the DHA, but they said “No, we can't accept that” [DRC, female, FG Pta].*

*I deal with civic rights in my organisation. From a civic rights point of view, one has a right to open a bank account. I went with a guy who was recognised as a refugee in this country and who already had a refugee ID book. We went to FNB and you know what happened? There is no paper inside of this ID book, nothing.*

---

<sup>12</sup> Interview with Ms. Mahlangu, Head, Refugee Reception Office, Marabastad, 12/02/03.

*One of the conditions of the bank is that you have to prove your ID document. When we went there, the first reaction when [the people at the bank] saw this ID – this is not an ID, we cannot help you. So from there, how can people save their money? I went back to the bank myself and brought the Refugee Act showing the manager of the bank what the law says and the last decision was “Voetsak Makwerekwere”<sup>13</sup> [DRC, male, FG Jhb].*

Once again, we raised the difficulties experienced by refugees in trying to open bank accounts with the Department of Home Affairs, but all they could say was the following:

*There is a lack of commitment between DHA and other institutions. Refugee Reception Offices cannot be writing letters to everyone to enable them to open bank accounts<sup>14</sup>.*

What the quotes above indicate is that despite attempts by refugees to engage in simple transactions, such as opening bank accounts, that would facilitate their integration into South African society, and to seek assistance from the Department of Home Affairs to facilitate these activities, they are being asked to fend for themselves and reach one dead end after another.

## ACCESSING EMPLOYMENT

A number of refugees that we interviewed constantly made the link between inadequate documentation and the inability to secure employment. It is not surprising that documentation was highlighted as the main need for the majority of asylum seekers and refugees in the Phase I survey. The lack of proper documents that are recognised by employers, banks and different government entities endanger asylum seekers and refugees’ chances at basic survival. These feelings came through very clear in different discussions held with refugees throughout this study.

*Our biggest problem is not being able to work or study. If we can’t do either one of these, we can’t have access to money to pay for different things. Our children’s future is blocked [Rwanda, female, FG Jhb].*

*Sometimes when we apply for a job, even with the status for two years, they ask you which permit do you have? And you say: “I have a permit for two years”. What kind of permit? Do you have a work permit? They want a work permit not the refugee status. They want a work permit, a Congolese passport with the work permit. Not a refugee status that allows you to work and study [DRC, female, FG Pta].*

---

<sup>13</sup> *Voetsak Makwerekwere* roughly translates into “Get out, you damn foreigner”. The term *makwerekwere* is a derogatory term used to describe foreigners.

<sup>14</sup> Interview with Ms. Mahlangu, Head, Refugee Reception Office, Marabastad, 12/02/03.

*I know people who have lost their jobs for not having an ID number. I have a friend of mine who got a job at SARS. She has refugee status. She applied for the ID but she hasn't heard anything [DRC, female, FG Pta].*

*My husband was working but they kept asking him to get a green ID. Since he could not find the green ID he was fired [Rwanda, female, FG Jhb].*

*If you don't have a green ID, you land in a second class – you don't get the same payments [Somalia, male, Interview JHB].*

*The traffic department they don't issue licences for business, for informal trade, they issue them only for those who have green IDs. For stalls, you can't get a stall. Refugees do not qualify. What you do is to pay a South African to get the licence to trade. If you apply as a foreigner you don't get it [Somalia, male, FG Pta].*

*For those who are applying for security, there is a condition that you must get an SOB [Security Officers Board]. To get an SOB certificate, you must get your ID. SOB, it is another paper that says that you have not committed any crimes and there is nothing wrong with you in this community. You must first have ID to get the SOB. That means that many people have lost their jobs. Only people who can get SOB are South Africans. Many people are being limited from getting jobs if you can't get ID [Burundi, male, FG Pta].*

What the comments above illustrate is that regardless of the form that documents take at present, entities such as employers and banks do not recognise these documents because they do not consider them to be official forms of documentation; instead they often regard them as “fake” or easily forgeable pieces of identification. Not only does this limit the right of asylum seekers and refugees to access basic services that they are entitled to under the South African Constitution as well as their basic survival, but also deny asylum seekers and refugees the ability to contribute their skills to the South African economy, as it is very difficult for them to secure employment. In the words of one focus group participant,

*I meet people who have the qualifications, they studied at university, and they are doing nothing. People are sending CVs without any good news. It is terrible for people. They are trying to survive. They are earning R30 a day. They stay with 10 people in a room so that they can pay R100 per month. It is unbelievable; it is very difficult. If they could work, I think life would be easier for them [DRC, female, FG Pta].*

When asked about how these problems could be addressed, focus group participants had different opinions. For instance, one participant thought that the problem might be dealt with if information is given to different institutions and entities such as banks and employers. In her own words,

*For employers to pay, they need an ID number, to identify the person, whenever the person travels, etc. When there is no ID number it is difficult for them to give you such a big task, because you can run away. They want some kind of follow-up for your identity. That is the problem, so if they can access that refugee status, DHA must explain to South Africans that those people are allowed to work, to study and do whatever, because it is written, refugees have almost the same rights as South Africans [DRC, female, FG Pta].*

In contrast, others felt that the problem of acceptance of documents emanates from the production of different ID documents for South Africans and foreigners and therefore not easily solvable.

*The problem is that when the government decides to give us a different kind of document, which is different from that which South Africans have, that means that we are blocked. If you have the green ID that means that you will be helped, listened to and have access to everything. When you have a red or maroon ID, that is different from the South African document, you are blocked from the moment that this different document is issued by the government [DRC, female, FG Jhb].*

*If you don't have a green ID you can't get anything from the government. But if you have a green ID you can get a lot [Somalia, male, FG Pta].*

*We have been here for seven or eight years. What we need is a green ID. We don't want anything else. This will solve our problems. [Somalia, male, Interview Jhb]*

## OTHER PROBLEMS ENCOUNTERED DUE TO THE LACK OF PROPER ID DOCUMENTS

In addition to facing different problems in trying to open bank accounts and securing employment opportunities, focus group participants and interviewees also mentioned, albeit briefly, a series of additional problems that they face due to the lack of proper documentation and lack of knowledge amongst institutions of what ID documents for asylum seekers and refugees look like.

One Angolan respondent interviewed in Johannesburg indicated that universities often do not accept Section 24 refugee permits. Instead, they continue to ask for an ID document or a birth certificate. However, often asylum seekers and refugees do not have their birth certificates with them and very few have managed to obtain a maroon ID.

Another Angolan respondent in Johannesburg also mentioned that businesses that deal with money transfers do not accept Section 22 permits. As this Angolan asylum seeker commented:

*When someone sends money from outside, you need someone with an ID to be able to receive it. If I go with this document [Sec 22], they don't give me the money. You have to pay someone with an ID for the service. This document only ensures that the police don't pick you up [Angolan, male, Interview Jhb].*

Another impaired financial service that respondents mentioned was their inability to obtain bank loans to finance their studies, for instance. In this same vein, respondents complained that not having a green ID means that they are unable to obtain any assistance from government, in the form of social grants or social security or a travel document from the UN.

Another focus group participant highlighted the problems associated with having to renew permits so frequently. In her own words,

*The other problem with this paper is when they ask you to extend it. Now they gave me one month. Let's say you are looking for a job, it is a bit far away, you don't have transport, and sometimes you don't have any money. You come from the place where you are to extend the paper, but by the time you get there the paper has expired. It is a big problem [Uganda, female, FG Jhb].*

As can be observed from the comments presented above, there are numerous problems with the current documentation that asylum seekers and refugees are being issued. In particular, it is of concern that documentation acts as a main barrier to their ability to sustain themselves through employment. Considering that assistance provided by UNHCR and its implemented partners is often limited and government assistance is non-existent, denying asylum seekers and refugees the right to work as a result of barriers with documentation translates into denying people their basic right to life.

## ACCESS TO HEALTH AND EDUCATION SERVICES

---

We asked focus group participants and interviewees about their experiences in accessing health and education services. On healthcare, we asked specifically about access to emergency care, as well as primary health care. On education, our focus was on issues of access of asylum seeker and refugee children to primary schools. Most respondents interviewed did not seem to encounter problems in accessing primary health care, mostly local public clinics in their respective communities. However, they raised a number of problems in trying to access emergency health care. In addition, respondents with children also mentioned the problems they have encountered in trying to send their children to primary school.

### ACCESS TO EMERGENCY HEALTH CARE

From the evidence gathered through the focus groups and interviews, it seems that asylum seekers and refugees are often at the mercy of individual doctors and nurses at public hospitals to gain access to this constitutionally protected right. As illustrated by the words of one female focus group participant,

*If you have a problem during the weekend, the hospital can't help you. I had to go with my child. He had a fever of 42 degrees. I went to South Rand Hospital. It was a case of emergency, but nobody came to assist me. I had to go in and present myself and tell them that I belong to the medical corps, that I am a nurse just like you. I wanted to talk about my child. I showed the doctor my nurse card from my country. And he said: "Ah, you are a nurse!" And he said: "What is your problem? Bring your child quickly!" After three hours, and a 40-degree fever they assisted me because I told them I was a nurse [DRC, female, FG Jhb].*

*I went to Pretoria Academic Hospital. My baby had diarrhoea. I was told that it was not an emergency, and that I had to go to the clinic first. But I didn't go to the clinic. I found another doctor at the hospital. I told him that my baby had had diarrhoea for 3 days and he decided to assist me and gave me medication. He didn't give me a bill. The medication belonged to him [Angola, female, Interview, Pta].*

The cases above illustrate that asylum seekers and refugees often have to insist to receive care and depend on sympathetic doctors or nurses who are willing to help. Problems of access are often compounded by the inability of asylum seekers and refugees to explain their ailments due to language barriers and the lack of knowledge amongst hospital administrative personnel about the forms of documentation that asylum seekers and refugees are issued.

*At the hospital, they see you very late. You have to wait and the doctors ignore you. Because of this paper, they don't care to assist you. Even if you are almost dying they just leave you. Then they ask you to come back two months later, even if you don't feel well. They just speak their language. They give you problems because you don't speak English [Angola, male, Interview Jhb].*

Similar problems of language, coupled to seemingly xenophobic sentiments by hospital personnel, were echoed by a number of interviewees and focus groups participants. Describing her own experience, an Angolan interviewee added,

*I had breast inflammation. I went to Johannesburg Hospital. I was asked to wait for three hours. They kept saying: "You are a makwerekwere, you are a refugee". Everyone there at the hospital was saying the same thing. Even If you can't understand the language, you know that they are being rude. After three hours, I received assistance. With the pain it is hard to wait. I paid R30 to get the card. They sent me to Helen Joseph. They gave me a prescription to get the medicines and I was asked to come back but I couldn't because I didn't have the transport money [Angola, female, Interview Jhb].*

Similarly, other interviewees mentioned the negative treatment that they often get at hospitals due to language barriers:

*My boy fell off the 2<sup>nd</sup> floor. We called the ambulance and four hours later the ambulance came. By then, we had taken a taxi to Johannesburg Hospital. At the hospital, they asked me to put the baby on the floor, and they saw he was walking. So they said that he was fine. We just got a Panado and told to go home. I had language barriers so I couldn't explain the problem well. I couldn't fight for an x-ray and better treatment [Angola, male, Interview Jhb].*

*If they ask you something and you talk only in English, they don't care too much about you, if you are not talking South African languages. If people who work there ask you something in Sotho or Tswana, you don't talk. You talk English. They realise you are not South African people. They don't take seriously your problem as if you were South African [Rwanda, male, FG Pta].*

Interestingly, some asylum seekers and refugees are aware of the problems of language and therefore try to find coping mechanisms to bypass these problems. The following quote exemplifies some of the strategies that asylum seekers and refugees have learnt to adopt to deal with these problems:



*In cases of emergency, when you call an ambulance and you don't speak in an African language, it is not easy to get an ambulance. Some people go to South African friends and they call the ambulance in their language and the ambulance comes quickly [Rwanda, male, FG Pta].*

Not only does language act as a barrier in being able to ensure an ambulance arrives or describe health problems, but also in being turned away from hospitals in the first place. As one female participant from DRC commented,

*I have my daughter who has a problem with her teeth, all her teeth are falling out. She is 17 years. She suffers a lot. I went to Hillbrow Hospital and they chased me away. I had difficulty explaining to them. I tried to explain but they said to me: "You don't know my languages, you don't know English". When I told them I was from Congo, they chased me away with my child. I went to Johannesburg Hospital. When I went there, the problem was that I was not staying in the area covered by Johannesburg Hospital. I pleaded with a lady there [DRC, female, FG Jhb].*

The comments above illustrate that asylum seekers and refugees often have to try to obtain assistance in hostile environments, where personnel ignore their problems due to language problems or possible xenophobic attitudes. This being said, in some cases, it is difficult to ascertain whether asylum seekers and refugees are being targeted because of their being foreign or whether the inadequate service they receive is something that everyone must endure, whether South African or not. This is particularly the case with having to wait for a very long time before people are attended to. As one female participant from DRC expressed this:

*I went to hospital with all my kids because they were all sick. I was there with other South Africans who needed help. We were all in the same boat because we couldn't pay. They gave us some papers to fill out. I went there very early, but since I told them that I would pay later because I didn't have money, I had to wait. They gave me back the papers, six hours later. All the South Africans were assisted first, but since I was a foreigner, I had to wait [DRC, female, FG Jhb].*

The comments above seem to indicate that foreigners are often put at the end of queues due to their being foreign and not due to their inability to pay. However, other participants also mentioned that bad treatment at hospitals is not just limited to refugees. As one participant put it,

*What is happening for some individuals, it can even happen in your country. If you do not meet a nice nurse, for example, they will treat you as they want. It is a similar experience to what we find in our countries. Sometimes you will say "I*

*can't go to this hospital because they do not treat people nicely". You can't say that it is in South Africa only, or that they are not treating refugees nicely [Burundi, male, FG Pta].*

Since hospital personnel do not seem to have formal, clear guidelines from the National Department of Health on how to deal with asylum seekers and refugees who require emergency medical care, it is possible that the treatment being experienced at public hospitals might vary depending on the personal attitude of doctors and nurses who might come into contact with asylum seekers and refugees on their working days.

## **ACCESS TO PRIMARY SCHOOL EDUCATION**

As with access to health care, we asked focus group participants and interviewees who had primary school going age children to tell us about their experiences in sending their children to school. We focused on primary school education because under the South African School Act, schools are expected to have exemption policies to enable children whose parents or guardians are unable to pay the school fees to attend school. As per the South African Constitution, every child has the right to have access to primary school education.

From the evidence gathered, we found that a number of respondents were aware of the exemption policy. This could probably be attributed to the fact that in Johannesburg, JRS and Wits Law Clinic held workshops on education policy and access to schooling with refugee communities. Similarly, in Pretoria, Lawyers for Human Rights has embarked on a campaign to ensure that the children of asylum seekers and refugees are able to go to primary school. However, being able to get an exemption for school fees only partially serves to help parents of asylum seeker and refugee children. This is exemplified in the following quote:

*My daughter studies. For me to register her, it was necessary that I pay R350. At the beginning of the year, I was one of the first people on the list to register my child. I spoke to the school and they told me that if I didn't pay the R350 they would give the place to another child who could pay the money. I tried as hard as I could to get the money, from here and there. I told the school that I couldn't pay the registration and the school granted me an exemption so that the child could assist to the school. They accepted that I should pay a small amount per month. But now I still face a lot of problems. Ever day my child comes and tell me: "Mom, I need R40 for a picture", "Mom, I need R10 for this and that". I couldn't keep paying this money. I don't work and I don't have this money. My child is frustrated. They know that my child is a refugee child. Yet money for notebooks, or R10 for this or R5 for that, where am I supposed to get that money? If you explain it to the child, the child doesn't see it that way and she is feeling*

*truly frustrated. If I don't pay, I have to give the books back to the school [DRC, female, FG Jhb].*

In many cases, while exemptions help some way towards ensuring that asylum seeker and refugee children are able to go to primary school, there are a number of hidden costs that need to be covered beyond the basic school fees. These include the cost of transport, uniforms, food and school materials. As exemplified above, these costs, coupled to the reduced school fees, present an added problem for parents who are unable to work and thus unable to afford these costs. Some respondents indicated that even the assistance that is offered is limited and therefore does not offer a solution for parents. As one respondent indicated,

*If families have many children, JRS gives assistance only for two kids per family. They pay only for school fees for primary school, but parents must pay for uniforms and transport and this is often more expensive than what JRS pays [Rwanda, male, FG Pta].*

Similarly, one interviewee spoke about the problems of sending her children to crèche even if she were to be able to get assistance from JRS.

*I have no money to send them to crèche. I take care of them. I didn't know about JRS when I first arrived. I knew about it later. A friend of mine got assistance from JRS – only half of the assistance. Where can she get the R150 that she must pay? [Angola, female, Interview Jhb]*

Despite the possibility of obtaining assistance from organisations such as JRS, as well as exemptions from the schools themselves, the remaining costs often force parents to refrain from sending their children to school. From the evidence gathered, there are very few asylum seekers and refugees who can afford to send their children to primary school. One exception to this rule might be found in the Somali community in both Johannesburg and Pretoria. One focus group participant indicated that members of the Somali community in Pretoria are able to send their children to secondary school because the chairperson of the Somali community also happens to be the principal for a secondary school. In his own words,

*Our chairman is the principal for the high school in Laudium. He pays half for Somali kids [Somalia, male, FG Pta].*

While this is a positive development within the Somali community in Pretoria, access to school, whether it be primary or secondary, should not depend on personal connections. All asylum seeker and refugee children, whether Somali or not, should be able to attend school.

The situation in Johannesburg is slightly different as the Horn of Africa Society located in Mayfair, Johannesburg, provides financial support to Somali children and adults for all grades<sup>15</sup>. The Executive Committee of the Horn of Africa Society assesses applications of who needs assistance. With regards to primary school, the Horn of Africa Society provides assistance to children who are orphans or whose parents are sick and might require assistance. Assistance is provided for attendance at public and private schools. The Horn of Africa Society covers half the costs of school fees, uniforms and books. In the case of public schools, the Horn of Africa Society assists parents in applying for exemptions to supplement outstanding costs that the Society cannot cover<sup>16</sup>. Despite these forms of assistance, the Horn of Africa Society recognised that they are unable to meet all the needs of the Somali community.

In addition to problems of funding and affordability of costs, there continue to be problems with the documents that asylum seekers and refugees hold. In many cases, schools are not aware of these documents and their ignorance prevents children from being able to attend primary school. For instance, one focus group participant from the DRC commented,

*I met a woman from Rwanda who went to enrol her son in school with the refugee permit. They asked him for a study permit. So he went to the Department of Home Affairs and asked for a study permit. They wouldn't allow him to study with that permit. South Africans must know what is the law, what are the rules [DRC, female, FG Pta].*

The comments presented above show that while some parents have succeeded in being granted exemptions to send their children to primary school, the granting of exemptions depends on individual schools and also provide limited relief from the costs associated with sending children to school.

Due to the problems with documentation, their inability to find employment and the limited assistance that they receive from service providers, a significant proportion of parents of asylum seeker and refugee children must endure constant struggles to ensure that their children can assist to primary school. It is important to keep in mind that many poor South Africans also experience great difficulties in sending their own children to primary school, for similar reasons.

---

<sup>15</sup> Applications are not confined to asylum seekers and refugees living in Johannesburg.. The Horn of Africa Society assists asylum seekers and refugees in Johannesburg, Pretoria, Vereeniging as well as Mpumalanga. Information about the Society is passed along through word of mouth.

<sup>16</sup> In addition to the educational support, the Horn of Africa Society provides assistance to asylum seekers and refugees with self-help projects, letter writing to deal with access problems, assistance with medical costs, as well as funerals. In the last five months, the Horn of Africa Society disbursed a total of R68,000. Interview, Executive Committee, Horn of Africa Society, 30/03/03.

## AVAILABLE TYPES OF ASSISTANCE

---

In addition to asking interviewees and focus group participants about their experiences in accessing different services and the problems associated with this, we also asked them whether they have attempted to approach any organisations for assistance to deal with the problems they encountered, as well as about the outcomes of these interventions.

In order to understand where asylum seekers and refugees can go for assistance, the first part of this section provides a basic description of the services provided by UNHCR's main implementing partners in Johannesburg and Pretoria.

In Johannesburg, the UNHCR provides financial assistance to the Wits Law Clinic and in Pretoria it supports Lawyers for Human Rights to address legal matters concerning asylum seekers and refugees. In both Johannesburg and Pretoria, UNHCR provides assistance to Jesuit Refugee Services to provide basic social assistance to asylum seekers and refugees, in the form of shelter, food, skills training and education. While not one of UNHCR's service providers, an interview was also conducted with the Black Sash in Johannesburg, as it provides assistance to asylum seekers and refugees in getting access to the Refugee Reception Office in Braamfontein, as well as referral information.

### WITS LAW CLINIC<sup>17</sup>

UNHCR provides funding for an attorney, a legal assistant, as well as some ancillary costs incurred through travel and the creation of case files for asylum seekers and refugees<sup>18</sup>. In the year 2001, Wits Law Clinic received R136,434 in funding from UNHCR; this figure was reduced slightly in 2002 to R118,900. Unlike Lawyers for Human Rights, Wits Law Clinic does not receive any funding from the UNHCR for litigation<sup>19</sup>.

There are three functions that the Wits Law Clinic carries out for the UNHCR. Firstly, Wits Law Clinic acts as one of the implementing partners for UNHCR. Since up until August 2002, UNHCR received limited numbers of asylum seekers and refugees directly, implementing partners such as the Wits Law Clinic were tasked with carrying out referral work on voluntary repatriation, family reunification and resettlement. Up until this time,

---

<sup>17</sup> Information provided under this section was obtained through a personal interview with Abeda Bhamjee, Refugee Legal Counsellor, Wits Law Clinic, 11/03/03.

<sup>18</sup> Starting in 2002, UNHCR began to provide funding for a legal assistant to implementing partners who focus on legal assistance.

<sup>19</sup> According to the UNHCR, Wits Law Clinic has never requested funds for litigation from UNHCR. UNHCR would be willing to provide funding for litigation if there is a coordinated strategy between legal implementing partners and if the cases are precedent setting ones or involve group actions. However, since there are only two people at Wits Law Clinic who provide legal assistance to asylum seekers and refugees, UNHCR is concerned that if Wits Law Clinic engages in litigation this will not allow sufficient time to engage in client counselling. It is for this reason that UNHCR supports a coordinated litigation strategy with other legal implementing partners.

Wits Law Clinic conducted assessments and screening of cases on the above issues for the UNHCR that were brought to it by asylum seekers and refugees.

However, this situation changed in August 2002, when UNHCR instituted a system of direct consultations with asylum seekers and refugees in both Johannesburg and Pretoria. Based on a visit by a team from UNHCR Headquarters from Geneva at the end of 2001 which assessed the operational environment, in August 2002 UNHCR began to institute a system of consultations with asylum seekers and refugees. In Pretoria, every Monday, UNHCR does an intake of asylum seekers and refugees at its offices. Depending on the issues raised, people who go to UNHCR are referred to the appropriate implementing partners or asked to come back with appointments on Tuesdays and Thursdays.

When this system started in Johannesburg, a UNHCR representative used to consult with asylum seekers and refugees two days per month at Wits Law Clinic, located within the University of Witwatersrand's West Campus. Due to the fact that limited numbers of people came to these consultations, UNHCR decided to change the location of the consultations from Wits Law Clinic to JRS offices in downtown Johannesburg to preempt any problems of access that asylum seekers and refugees might have with Wits University.

According to the UNHCR, since the consultations did not attract large numbers of people at JRS offices and many cases raised by asylum seekers and refugees were not relevant for the UNHCR, UNHCR decided to reduce the direct consultation days from two to one per month. At present, a UNHCR representative conducts consultations jointly with the Wits Law Clinic at JRS offices in Johannesburg, the first Tuesday of every month from 9:00am to 2:00pm. Due to the existing system, asylum seekers and refugees are not confined to going to Wits Law Clinic for matters of voluntary repatriation, family reunification and resettlement. They can now take their problems directly to the UNHCR who will also assist with these matters, through their system of consultations.

Secondly, the Wits Law Clinic attempts to address a number of administrative justice issues concerning the Department of Home Affairs. This includes assistance to asylum seekers and refugees with appeal cases that are taken to the Appeals Board, as well as possible litigation. While the Wits Law Clinic has been successful in taking cases to the Appeals Board, it faces difficulties in engaging in litigation with the Department due to financial constraints and the need for indemnity funds in the case that court cases of public interest are lost. The Wits Law Clinic is aware of the need to enforce decisions such as the recent court challenge on the work and study prohibition for asylum seekers as well as access to the Reception Offices. However, due to limited funding for litigation, "the best that can happen at the moment is the writing of threatening letters to enforce the decisions"<sup>20</sup>.

---

<sup>20</sup> Interview with Abeda Bhamjee, Refugee Legal Counsellor, Wits Law Clinic, 11/03/03.

Similarly, the Wits Law Clinic is concerned that the Department of Home Affairs is not complying with the finalisation of asylum applications within the 180 days stipulated in the regulations to the Refugee Act and the issuing of maroon ID documents. The denial of these documents to refugees further serves to limit the possibilities of litigation against banks, the government (for the provision of grants) and educational institutions which deny refugees their basic rights of access enshrined in the Refugee Act and the South African Constitution. According to the Wits Law Clinic it should be the administrative duty of the refugee subdivision at the Department of Home Affairs to abide by these regulations. However, due to the experience of non-cooperation by the Department on these matters, Ms. Bhamjee suggested that

*We should be able to hire an advocate on a retainer basis who can provide a specialised service to take on personal issues that can have public interest. For instance, there is a need to sue the Department of Home Affairs and demand that they issue maroon ID documents within a particular time<sup>21</sup>.*

However, this would require additional financial assistance from the UNHCR or other funding agencies<sup>22</sup>. Moreover, to be able to address administrative justice issues with the Department of Home Affairs in Johannesburg more broadly, it would also be necessary for the Wits Law Clinic to engage in consistent monitoring of the activities of the Braamfontein Refugee Reception Office<sup>23</sup>. This would require a paralegal who could go to the Reception Office every morning for specified durations of time from 6:00am to 11:00am to systematically document problems. At present, due to the limited personnel funded by UNHCR at the Wits Law Clinic and their focus on client counselling, it is not possible for the Clinic to hone in on litigation and administrative issues linked to the Department of Home Affairs.

The third function that the Wits Law Clinic carries out with regards to refugees revolves around advocacy and training. The Wits Law Clinic worked closely with the Roll Back Xenophobia Campaign, supported by the South African Human Rights Commission and UNHCR, in the past to provide training to the South African Police Services. In addition, it participated in legal training of refugee organisations such as the Coordinating Body for Refugee Communities (CBRC). More recently, jointly with the UNHCR and the NCRA, the Wits Law Clinic worked closely with refugee organisations to form the Johannesburg Refugee Network, a coalition of asylum seekers and refugees whose main purpose is information sharing.

---

<sup>21</sup> Even if the maroon IDs are issued, Ms. Bhamjee commented that it might also be necessary to amend the South African Identification Act, which only recognises the green ID document as a valid form of identification.

<sup>22</sup> Mr. Abel Mbilinyi, Protection Officer for UNHCR, was of the opinion that it might not be necessary to hire an advocate on a retainer basis, but rather engage his/her services specifically for test cases, that deal with matters of principle with wide applicability.

<sup>23</sup> This is a task that in theory should be carried out by the South African Human Rights Commission, especially since it is Constitutionally mandated to monitor the implementation and respect for human rights. However, in practice, the SAHRC has played

The Wits Law Clinic is also involved in conducting training with community-based organisations on issues such as HIV/Aids, the right to education, and paralegal training – this last one done jointly with the Black Sash. Since these types of training occur at a local level, they tend to have an impact on local communities and assist with the integration of refugees into these communities.

In the year 2000, training was also conducted with magistrates on the Promotion of Administrative Justice Act (2000). According to this Act, any administrative decision by a board or an institution can be taken to a magisterial court, instead of the current practice of needing to take it to the High Court, which makes litigation more accessible financially. Unfortunately, the rules of court for this Act should have been formulated during the first year of operation but this has not happened. According to the Wits Law Clinic, there is a need to ensure that this Act is implemented as it could benefit a number of people, including asylum seekers and refugees, in challenging access to government social grants, education, health care, and documentation.

## **LAWYERS FOR HUMAN RIGHTS<sup>24</sup>**

In Pretoria, the UNHCR provides financial assistance to the Refugee Rights Project housed within Lawyers for Human Rights (LHR). In the year 2001, Lawyers for Human Rights received R444,400 in funding from the UNHCR. This amount was substantially increased for the year 2002 to R698,279. The Refugee Rights Project (RRP) engages in the following five activities: legal assistance, lobbying and advocacy, training, networking and research. The Project operates in four cities, namely, Pretoria (5 people), Port Elizabeth (2 people), Johannesburg<sup>25</sup> (2 people) and Durban (3 people).

### **LEGAL ASSISTANCE**

In terms of legal assistance, the RRP provides general legal advice to asylum seekers and refugees. On the status determination process, the RRP assists with access to the Department of Home Affairs, with applications for appeals, ID documents and the lifting of the work and study prohibition. On Mondays, the RRP sees asylum seekers and refugees on a first come, first serve basis. From Tuesday to Thursday, asylum seekers and refugees are assisted based on appointments set up on Mondays. Fridays are reserved for unaccompanied minors, filing and administration. In 2002, the office assisted almost 2100 clients. According to Mr. Van Garderen, the size of the client load often does not allow for enough time to be spent on individual cases. As he explained this, even if cases

---

a very limited role – except in its work linked to the Lindela Repatriation Centre- in monitoring the abuses that asylum seekers and refugees are subjected to at the Refugee Reception Offices.

<sup>24</sup> Information for this section was obtained through a personal interview with Jacob van Garderen, Project Co-ordinator, Refugee Rights Project, Lawyers for Human Rights, Pretoria, 12/03/03.

<sup>25</sup> The Johannesburg office of the RRP runs a programme on arrest, detention and deportation, and ongoing monitoring of the Lindela Repatriation Centre in Krugersdorp. This office is not funded by the UNHCR.



do not go to court, there are a number of follow-ups, such as letter-writing or phone calls that need to be undertaken for each case.

In addition to legal advice, the RRP engages in litigation with the Department of Home Affairs to implement refugee policy and challenge unconstitutional practices. The RRP has also engaged in litigation in other areas such as social development grants, access to schools, and employment - particularly with the Security Industries Regulatory Authority. Lawyers for Human Rights does not appear in court because it is not registered as a legal clinic. While it has registered attorneys, it often engages the services of private attorneys not only to take advantage of their particular expertise on refugee matters but also to ensure that private attorneys work closely with NGOs and develop an interest in refugee law.

## LOBBYING AND ADVOCACY

The Refugee Rights Project has engaged and continues to engage in a series of activities linked to lobbying and advocacy. It made important interventions in the drafting of the Refugee Act, which led to a number of recommendations that were included in the Act. It has also engaged government departments such as Social Development and Education to try to ensure access for these services amongst asylum seekers and refugees.

A large part of the advocacy comes through the litigation that the RRP undertakes. In this regard, the RRP has worked closely with the Legal Resources Centre in Durban and Cape Town to challenge the Department of Home Affairs on the issuing of ID documents, as well as the reverting of refugees back to asylum seeker status. In addition to litigation, as part of its advocacy activities, the RRP has worked closely with the Roll Back Xenophobia Campaign, it publishes a bi-annual magazine dealing with refugee issues, it conducts interviews with the media and hosts a useful website with valuable information on refugee matters.

## TRAINING

Like Wits Law Clinic, Lawyers for Human Rights engages on a series of training activities on refugee law with different entities. Jointly with the South African Human Rights Commission, Lawyers for Human Rights participated in a training programme with the South African Police Services. In the year 2000, LHR undertook a lawyers' training programme in Durban, Cape Town and Pretoria. In 2001, it engaged in a training programme with the South African Law Society, where private practitioners were taught about refugee law. Currently, LHR is working jointly with the Centre for Human Rights at the University of Pretoria to begin offering courses on refugee law.

In addition to these specific training programmes, LHR participates in continuous training with Department of Home Affairs officials (jointly with UNHCR), with refugee

communities and regional training programmes with the aim of using African human rights instruments for refugee protection.

## NETWORKING

Lawyers for Human Rights engages in networking at three different levels. Locally, LHR has worked with the Pretoria Refugee Forum. This has sometimes been difficult because there is a lack of cohesion amongst refugee communities in Pretoria. Despite these problems, however, LHR remains the central point for refugee communities in Pretoria.

Nationally, LHR is an active participant of the National Consortium for Refugee Affairs (NCRA), while internationally it makes a number of interventions. While it is not a member of any official international networks, LHR attends UNHCR Excom Meetings in Geneva to put African refugee issues on the agenda and cooperates with international NGOs around specific refugee issues. For instance, very recently, LHR worked closely with Australian NGOs on issues of detention.

## RESEARCH

While research constitutes one of its focus areas, LHR recognises that it is amongst its weakest. LHR has produced useful research reports on refugee children's rights, refugee children and education, as well as the monitoring of Lindela, which have served to inform its advocacy activities. However, LHR recognises that their main strength is in legal advice and litigation. For this reason, instead of engaging in research themselves, LHR is beginning to rely on other entities, such as C A S E, to conduct research on refugee issues while they focus on pursuing issues identified in the research that is conducted.

## **JESUIT REFUGEE SERVICES<sup>26</sup>**

Jesuit Refugee Services (JRS) is an international organisation whose mandate is to accommodate, serve and advocate for refugees worldwide. It has offices in both Johannesburg and Pretoria. While JRS engages in advocacy and media work, it is mostly known amongst asylum seekers and refugees as the entity that facilitates different forms of social assistance. In the year 2002, JRS assisted a total of 15,500 people.

UNHCR provides funding to JRS for a series of services. In the year 2001, JRS received a total of R2.6 million. In the year 2002, this amount increased slightly to R2.65 million. The table below outlines the breakdown of funding received.

---

<sup>26</sup> Information for this section was obtained through an interview with Sister Joan Pearton, National Director, Jesuit Refugee Services, 13/03/03.

	<i>Funding 2001</i>	<i>Funding 2002</i>
Transport/Logistics	67 428	-
Domestic needs/Household support	510 000	320 985
Health/nutrition	139 800	61 378
Community services	461 250	726 078
Education	762 410	911 417
Income Generation	79 400	-
Legal Assistance/Protection	-	54 000
Agency Operational support	585 628	579 123
<b>Total (in Rands)</b>	<b>2 605 916</b>	<b>2 652 981</b>

**Table 1: UNHCR funding for JRS, per year and line item**

The food and accommodation assistance provided by JRS derives from the domestic needs/household support line item. This line item covers emergency assistance in the form of food, shelter and renting of accommodation.

## ADVOCACY

With regards to advocacy, JRS helps asylum seekers and refugees to ensure that they are treated with dignity. In this regard, JRS has conducted awareness programmes with schools and national government departments, such as Education and Foreign Affairs to ensure that the basic rights of asylum seekers and refugees are respected. Currently, it is also working closely with the President's Office to safeguard the rights of asylum seeker and refugee children. JRS has also participated in meetings for the re-launch of the Refugee Relief Board, run by the Ministry of Social Development, to provide emergency assistance to asylum seekers and refugees.

On a daily basis, JRS also engages in advocacy by writing letters for asylum seekers and refugees to facilitate their access to health and education services, the Refugee Reception Offices, as well as employment and banks. For instance, if someone is looking for a job, JRS will write a letter stating that the person is a bona fide asylum seeker who is in the country and who has permission to work. JRS has also been doing this with hospitals and they have found that some hospitals even waive hospital fees on the basis of these letters.

## MEDIA WORK

JRS is mandated by the Catholic Bishop's Conference to coordinate refugee issues. To do so, JRS has a National Advocacy Officer who engages in active media work with newspapers, radio, UNHCR, the Roll Back Xenophobia Campaign, in addition to doing their own media.

## SOCIAL ASSISTANCE

JRS provides assistance to asylum seekers in the form of food and accommodation, as well as health and education. Recently, it has also started programmes for vulnerable youth and caring for the terminally ill. Their aim is to provide services to asylum seekers and refugees that are not provided by anyone else in order to avoid duplication. Ultimately, they would like to work themselves out of a job, especially if the government is lobbied to take greater responsibility to assist asylum seekers and refugees.

### *Food and accommodation*

Assistance with food and accommodation is usually provided for a period of 3 months to asylum seekers who are new arrivals in the country, with a special focus on women and children. JRS used to provide limited assistance with shelter to single men, especially since they constitute the majority of the asylum seeker and refugee population in South Africa; however, due to UNHCR's priority focus on vulnerable groups, mainly women, children and the disabled, JRS is no longer providing this assistance to single male asylum seekers, as per a joint agreement with the UNHCR<sup>27</sup>. JRS used to assist single men by housing them at the shelters run by the Mercy Sisters. At these shelters, which are open to anyone in need of care, people need to pay R4 per night and are allowed to stay for a period of three months. The payment ensures that people receive three meals a day. However, JRS is no longer providing this service.

In Johannesburg, JRS runs a shelter for women and children that can house approximately 40 people. Food is provided at the shelter and JRS also ensures that the children who stay at the shelter are sent to crèche. Assistance with clothing is also provided.

In Pretoria, since JRS does not have a shelter, it tries to find accommodation for new arrivals in other shelters. In both Johannesburg and Pretoria, JRS also provides limited financial assistance for the renting of accommodation.

Food assistance in Johannesburg and Pretoria takes different forms. In Pretoria, JRS gives money, usually between R120 and R150 per month. In Johannesburg, JRS receives food donations and therefore gives out food parcels instead of money. The food assistance that is provided takes into account family size.

In cases of large families, JRS tries to give assistance with food and accommodation for longer than 3 months, especially if they are asylum seekers.

---

<sup>27</sup> Because of its priority on vulnerable groups, UNHCR no longer provides funding for assistance to single male asylum seekers and refugees. However, JRS could choose to provide this form of assistance out of its own funding.

## EDUCATION

JRS provides partial assistance with costs associated with sending children to primary school, namely school fees, transport and uniforms. However, between 300 and 400 asylum seeker and refugee children have been applying for assistance when JRS only has funds to assist 150 children. JRS assists a total of two children per family and the assistance is provided for the first 1½ years that asylum seekers or refugees are in South Africa.

While JRS tries to provide financial assistance for primary education, it has also been pushing parents to apply for exemptions from the payment of school fees with their respective schools. In this regard, JRS conducted a workshop with asylum seeker and refugee parents, the Gauteng Department of Education and the Wits Law Clinic to make them aware of the rights of children to go to primary school as well as the exemptions procedure. As part of this procedure, parents must offer to work at school in exchange for a partial or total reduction of school fees.

Besides support for primary school education, JRS is starting a new service for vulnerable youth, particularly children who are over 16 years old and who are unable to attend school because they are too old. The focus of this programme is on skills training, and ABET for children who have received no schooling. Linked to the vocational skills training, JRS has been trying to establish relationships with possible employers to facilitate trainees' access to the job market.

JRS also provides language classes to asylum seekers and refugees. In Pretoria, JRS funds the Misericordia Centre, while in Johannesburg it runs its own school for approximately 300 adults. The school uses the premises of the Belgravia Catholic Church, while JRS provides funds for teachers and costs associated with the classes. The school has three sections, one for people who lack any knowledge of the English language, another one for grammar, and a third one for writing and talking skills. In some cases, asylum seekers only do the first section and then leave because they have obtained employment as a result of the skills gained.

We asked JRS whether asylum seekers are aware of the criteria that JRS employs to provide assistance. Sister Joan Pearton indicated that the criteria are put up in all JRS offices. In addition, she indicated that counsellors describe the criteria whenever they speak to asylum seekers or refugees who ask for assistance. For instance, when they are receiving their last food parcel or money, asylum seekers are warned that it is the last one. However, as Sister Joan gently argued, “refugees sometimes don’t see what they don’t want to see”.

## **BLACK SASH<sup>28</sup>**

The Black Sash is a registered trust, a non-party political, non-profit organisation dedicated to ensuring the recognition and protection of human rights, both in law and in practice. The Black Sash engages in a lot of paralegal work, and in relation to asylum seekers and refugees, the Black Sash has focused on issues of access to the Braamfontein Refugee Reception Office, as well as the writing of letters to Home Affairs and institutions such as banks, to facilitate asylum seeker and refugee access<sup>29</sup>.

In this regard, between October and November 2002, the Black Sash, together with the Human Rights Committee, was actively involved in the writing of protection letters to asylum seekers who were unable to access the Refugee Reception Office in Braamfontein. The letters were addressed to the South African Police Services (SAPS) for the duration of seven days in order to ensure that asylum seekers who held no valid documentation due to their inability to access the Refugee Reception Office, did not get arrested. The Black Sash managed to obtain the approval of Director Reddy at Hillbrow Police Station as well as of the Police Forum to recognise these letters.

However, at the beginning of 2003, the Department of Home Affairs wrote to the Black Sash ordering them to stop issuing the letters. Since the Black Sash has stopped this practice, the number of asylum seekers and refugees coming to the office seeking assistance has diminished substantially. In order to address the problem of access to the Refugee Reception Office, the Office has agreed that starting on 31<sup>st</sup> March 2003, it will take in 50 asylum seekers on Mondays, 100 on Tuesdays, 50 on Wednesdays, and 100 on Thursday (from the SADC countries). It remains to be seen whether this will help to solve the problem of access to the Refugee Reception Office in Braamfontein.

In addition to the issuing of letters, the Black Sash works closely with the Wits Law Clinic in providing legal assistance for big impact court cases. It also works closely with the Johannesburg office of Lawyers for Human Rights to monitor the situation at the Lindela Repatriation Centre.

On an ongoing basis, the Black Sash provides paralegal training to members of community-based organisations, including asylum seekers and refugees. The training covers issues of refugee law, thus allowing other participants to become acquainted with the problems that asylum seekers and refugees face. Moreover, the Black Sash is an active participant in the Johannesburg Refugee Network. The Network allows for exchange of information not only with asylum seekers and refugees, but also with other service providers such as JRS and Wits Law Clinic.

---

<sup>28</sup> The information for this section was obtained through a personal interview with Uli Albrecht, Black Sash, 26/03/03.

<sup>29</sup> There are two full-time people at the Black Sash who devote their time towards assisting asylum seekers and refugees who frequent the office, as well as interacting with the Sub-directorate for Refugee Affairs within the National Department of Home Affairs, the Refugee Reception Office in Braamfontein, and service providers in Gauteng.

## **NATIONAL CONSORTIUM ON REFUGEE AFFAIRS**

The NCRA is voluntary network, which encompasses major role players in refugee issues. The key focus of the NCRA is on monitoring policies, making strategic interventions through advocacy, lobbying, training, and research, through the commissioning of research reports. The NCRA is not a service provider but rather an administrative structure that tries to develop a coherent approach to issues. Members of the NCRA, have their own focus areas. Those with the same focus areas are able to exchange information with each other through its quarterly meetings.

Based on the information that the NCRA receives from its members, it attempts to respond to challenges that arise through the adoption of a development approach. It has a strong focus on refugee rights, particularly on issues linked to refugee protection and gradually on access by asylum seekers and refugees to social services.

One of the activities that the NCRA engages in is lobbying and advocacy. For instance, with regards to legal issues and refugee protection, legal service providers come together under the NCRA in order to speak with one voice. For instance, representatives from the Wits Law School, Lawyers for Human Rights and the UCT Legal Aid Clinic have made submissions and presentations to Parliament on behalf of the NCRA. According to the Coordinator, the NCRA serves as a platform to lobby and set minimum standards with the Department of Home Affairs. It is the role of individual partners to ensure the implementation of these standards through their daily work.

In addition to engaging in lobbying and advocacy, the NCRA commissions research reports from its members and engages in their dissemination. Where possible, it builds on the research conducted to strengthen its lobbying and advocacy strategies. For instance, after the publication of a report on refugee children and unaccompanied minors, the NCRA was instrumental in setting up a separate network to lobby on issues surrounding unaccompanied minors. A recent report by Lee Anne de la Hunt from the UCT Legal Aid Clinic, which tracked changes on the implementation of the Refugee Act, has led to workshops with Department of Home Affairs officials with the assistance of UNHCR. Similarly, findings from a commissioned report on gender guidelines in the process of status determination are often incorporated in training that NCRA conducts with DHA officials. Since the NCRA does not engage in litigation, the results obtained through its lobbying and advocacy efforts are not as immediate.

## **EXPERIENCES IN OBTAINING ASSISTANCE**

Most of the asylum seekers and refugees that we interviewed had heard of the main service providers in both Johannesburg and Pretoria, namely JRS, Wits Law Clinic and Black Sash in Johannesburg, and Lawyers for Human Rights in Pretoria. The only

exception was Angolan respondents in Johannesburg who did not seem to have any knowledge of Wits Law Clinic.

## LACK OF REFERRAL MECHANISMS

At present there are no formal referral mechanisms in place to ensure that asylum seekers are able to obtain assistance upon their arrival. Referral often happens informally, by word of mouth. The Refugee Reception Offices do not provide information to new arrivals in any standardised way. Instead, this is left up to individuals. For instance, the head of the Refugee Reception Office in Marabastad indicated that if necessary, she refers people to JRS and LHR. In her own words,

*We cooperate with NGOs, although we often fight with JRS for shelter. We have had cases of women who need assistance but don't know who to talk to. We call JRS but they have an attitude that they don't want to receive people. For unaccompanied minors, the office contacts LHR.*

It would seem that the Braamfontein Refugee Reception Office is less involved in the referral of asylum seekers who need assistance. According to Mr. Ngozwana, this is not the responsibility of the Department of Home Affairs<sup>30</sup>. As he expressed this,

*The referral mechanisms are the primary responsibility of NGOs. The Wits Law Clinic is very vocal. We also know of the Black Sash and JRS. Shelter and social assistance are not our competence, it is the work of the NGOs...NGOs need to be close by – they should come in and take responsibility. There is some bad blood between the Department of Home Affairs and the NGOs. The NGOs should come and dish soup out at 6:00am, check unaccompanied minors and the disabled.*

It is interesting that the Department of Home Affairs does not recognise that the government has a responsibility to ensure that asylum seekers are assisted upon arrival. Rather than seeing the work of NGOs as a stopgap measure until the government takes more responsibility to provide assistance to asylum seekers and refugees, the Department of Home Affairs assumes that this is the sole responsibility of NGOs and not that of government departments such as Social Development, Education and Health.

Since the Department offers extremely limited information as to where asylum seekers can go for assistance and the NGOs do not have any formal systems for referral, asylum seekers' knowledge about where to go for assistance is left up to asylum seekers' themselves and their interactions with others.

---

<sup>30</sup> In an interview held with Dr. Machele, Deputy Director of Refugee Affairs at the National Department of Home Affairs, on 28/03/01 for a previous study that C A S E conducted for the UNHCR, Dr. Machele indicated that the provision of social assistance was the responsibility of the UNHCR and its implementing partners, as per their mandate.



## TRADE-OFFS IN SEEKING ASSISTANCE

From the evidence gathered, it seems that some asylum seekers and refugees, even though they know of where to go for assistance, often desist from doing so, because of the consequences that this has on their daily survival. As one interviewee in Johannesburg commented,

*The problem with going to organisations for assistance is that the organisations are far. It might cost you R10 or R20 to come and go and you need to use that money for food [Angola, female, Interview Jhb].*

Speaking specifically about going to LHR or JRS, some focus group participants commented:

*Most of the refugees have a problem, they don't even contact LHR. Most of the people are living day by day. If you can't work, you know you can't eat [Burundi, male, FG Pta].*

*You come here by DHA, by JRS or LHR and they don't help you. If you go there you waste your time. I much rather be out there giving out pamphlets to get R5 [Rwanda, male, FG Pta].*

As the quotes above illustrate, for some respondents there is a trade off between going to organisations for assistance and using that time to go out and try to make some money to be able to feed themselves or use the money that would be spent on transport to buy food. Having had the experience that they might be asked to come back again or be told that they will not be assisted, asylum seekers and refugees sometimes decide against making the effort to approach the different organisations. Alternatively, it could also be possible that asylum seekers and refugees are aware of the criteria used by service providers to provide assistance and therefore do not venture to visit service providers because they know that they will not be assisted for their specific problem based on the criteria that these organisations follow for provision of assistance.

In our focus group discussions with representatives of refugee organisations in both Johannesburg and Pretoria, a number of problems were raised linked to obtaining assistance from UNHCR's implementing partners, namely JRS and LHR as well as the UNHCR itself.

## LACK OF CLARITY ABOUT MANDATES AND CRITERIA

One of the main issues that arose in the focus group discussions was the lack of clarity amongst asylum seekers and refugees regarding the mandates of the different organisations providing assistance as well as the criteria used to determine the provision

of assistance. The issue about criteria emerged in relation to JRS, while the concern about mandates was mostly raised in relation to Lawyers for Human Rights and the UNHCR itself.

### *Jesuit Refugee Services*

Despite the fact that the representative from JRS indicated that asylum seekers and refugees are constantly made aware of the criteria that JRS relies upon to make decisions about funding, asylum seekers and refugees interviewed, particularly in Pretoria, did not seem to be clear about these general criteria. As some of them commented,

*People at JRS get assistance, but not all of them. You have to be lucky. JRS pays R1500 for some, but only R400 for others for rent. It is not clear how JRS decides what to give [Angola, male, Interview Pta].*

*What is happening is very bad. With JRS, there is a problem. They choose. You go there with another person who has the same problem, they help that other person, but with you they say, we can't help you. You have the same problem, but they choose. They help this one, and not the other [Burundi, male, FG Pta].*

*You find one family helped for 2 years and others for 2 months, and others nothing.*

**M:** *So you are talking about the criteria?*

*It is secret criteria [Burundi, male, FG Pta].*

From the comments above, it would seem that asylum seekers and refugees have difficulty in grasping how JRS makes decisions on who gets assistance, as well as how much assistance is provided. As the representative from JRS explained, assistance often takes into account family size, a factor that might serve to explain the different amounts received by different people. Moreover, it seems that JRS attempts to assist families beyond the stipulated three months, especially if they are asylum seekers. Once again, this might serve to explain why some families are getting assistance and not others. Whichever the case might be, asylum seekers and refugees lack clarity on the procedures followed by JRS to provide assistance.

The lack of clarity is an issue that JRS is in the process of working out with UNHCR. JRS and UNHCR have been engaged in joint discussions since May 2002 to finalise a set of referral guidelines, which aim to standardise criteria and procedures for the provision of assistance. In practice, the procedures are already in force but the formal document has not been signed mainly due to the fact that all parties concerned have not been able to

agree on some parts of the text. Once this protocol is finalised, an information sheet could be provided to refugee organisations in Johannesburg and Pretoria to ensure that asylum seekers and refugees are clear on the adopted criteria.

In addition to raising concerns about criteria, some asylum seekers and refugees also complained about the inadequate assistance that JRS sometimes offers and described some of the tactics that some asylum seekers have adopted to ensure that they can access some assistance. As one focus group participant mentioned,

*You can't take ten people to a room. But JRS, for a family of seven or eight people they give you just one room [Burundi, male, FG Pta].*

*When I came to ask for shelter with my child, they told me that I could get shelter if I was separated from my husband. But is it right for me to be separated from my family? [Burundi, female, FG Pta]*

*JRS gets money for social assistance. Accommodation, they help you only for a few months, one month or three months. With others, they say: "You must go on your own, finished". They can't survive. They don't have anything to eat. Many people are obliged to lie that they are minors because when you go to JRS you say, "I am a minor under 18 years". You are helped. People are obliged to lie to get assistance [Rwanda, male, FG Pta].*

*I know some people who pretend they are alone without husbands to get assistance. If they say they are with their husbands, they get nothing, no job for their husbands. People are forced to lie [DRC, male, FG Jhb].*

The feelings expressed above probably will come as no surprise to JRS. JRS itself recognises that it can only provide limited assistance. As it was stated previously, JRS's aim is to work itself out of a job. It is also trying to provide a service that should be the responsibility of the South African government and that is limited by the funding available to UNHCR and its primary focus on vulnerable groups. This might serve to explain why women are offered assistance but not their husbands, as well as why a large family might only be offered assistance to secure a one-room accommodation instead of a larger place.

### *Lawyers for Human Rights*

A number of asylum seekers and refugees interviewed in Pretoria indicated that they had approached Lawyers for Human Rights to assist them with opening bank accounts, negotiating with the local Council for trading licences at flea markets, as well as obtaining travel documents. In some cases, LHR wrote letters as a way of facilitating

access; however, respondents often argued that these did not make much of a difference. As some focus group participants explained,

*We came to LHR to get assistance with trading licences. We got a letter, last year. But for years they [the Council] have been turning us down. In 1997, they turned us down. In 1998, they said: Do you have green ID? No, then fuck off. We have gone to the City Council, to the Traffic Department. We came back to LHR with the issue and they said they were busy [Somalia, male, FG Pta].*

*It seems that not much power is given to LHR. I remember when I came here, I wanted to apply for the refugee passport. They [LHR] gave me a letter for DHA. I went to DHA with the letter and they told me: "What is this?" "Who wrote this?" And I said, LHR. They [DHA] said: "Who is this one?"... The letter said that I wanted to apply for the passport. And they said you must apply like anyone else. But I told them that I had a letter that says things are very urgent. But they said: "You must apply just like everybody else" [DRC, female, FG Pta].*

Despite attempts by LHR to render assistance, it would seem that letters written to deal with individual cases are often not sufficient. As representatives from LHR recognised, the high volume of clients that the office sees often does not allow for sufficient time to follow up on individual cases. Moreover, writing of letters to deal with individual cases represents a very unsustainable intervention, as this requires not only an asylum seeker or refugee being aware of an organisation like LHR, but also getting a letter and then hoping that the person receiving it will make a personal decision to deal with the matter. While this might help one or two asylum seekers, it might not help those who come after, as the person working at a particular place might be replaced or be no longer there.

At the same time, it is very difficult for an organisation like LHR or Wits Law Clinic to be successful in writing letters when those who are reading the letters lack any knowledge of the problems at hand or have no guidelines on how to deal with the matters raised. A more productive course of action might be for Lawyers for Human Rights and a representative from UNHCR to meet formally with Council officials regarding trading licences, for instance. This strategy seems to have worked with banks in Durban. In that city, representatives for Lawyers from Human Rights have begun to hold talks with bank managers of different banking institutions to enable asylum seekers and refugees to open bank accounts.

In contrast, other focus group participants felt that they did not have any clarity as to the mandate of LHR. As one focus group participant expressed this,

*We do not know the mandate of this project. When the refugees come to LHR for help, they tell you we can't do anything for this or they tell you to just wait, just wait and the time is running, running, running [Burundi, male, FG Pta].*

Some of the comments from participants also highlight a lack of knowledge for what LHR is already doing.

*This LHR must see if our rights are abused or not and take this issue to the court. We never see these people from LHR take some issues to the court. They are obliged to work with other lawyers from outside. This office is not registered, what do you think? (Laughter). They see there is no reaction from DHA. Why can't they take DHA or the Social Development department to the court? It is in the Refugee Law, but these people are not going to comply with the Refugee Act so you must take the issues to the court. In Cape Town they take the issues to the court [Rwanda, male, FG Pta].*

The comments above are of concern because they point to a lack of clear communication between service providers such as LHR on one hand, and asylum seekers, refugees and their respective organisations on the other. One of LHR's successful strategies in ensuring that refugee policies are implemented and that the basic rights of asylum seekers and refugees are protected has been their engagement in litigation. Cases are not only undertaken in Pretoria but also in other cities such as Durban. The sarcastic mention about LHR not being a registered office and their reliance on outside lawyers also points to a lack of understanding of why private lawyers are engaged as well as the steps being undertaken by LHR to register as a law clinic. Similarly, the questioning by participants about why the Department of Social Development has not been taken to court also indicates that people do not understand the importance of having formal IDs issued before a court case can be launched. While asylum seekers and refugees cannot be expected to know these technicalities, the lack of information can lead to undermining rumours that do not match what an organisation like LHR is attempting to do.

This lack of information not only affects asylum seekers and refugees but also the coordination of activities with other service providers working on similar issues in other cities or regions. For instance, in Durban, LHR has challenged banks, has worked on a court case with the Legal Resources Centre on the issuing of ID documents, as well as on the reversal from refugee to asylum seeker status. However, it is unclear how much information sharing exists across service providers in different geographical areas, whether working directly in the legal field or not.

One example of positive cooperation and success in making an impact has been in the area of access to primary education for asylum seeker and refugee children. LHR has adopted this issue as a focus area for the Refugee Rights Project that has dedicated people

working specifically on this issue. For the last year, LHR has been actively engaged in ensuring that asylum seeker and refugee children are assisted in accessing schools. While LHR continues to contact individual schools and furnish letters to individual parents of asylum seeker and refugee children who seek assistance from LHR, it has managed to broaden its intervention beyond individual cases. In this regard, it has not only provided information about this issue to refugee communities in Pretoria but it has also liased with Wits Law Clinic and JRS in Johannesburg to run a workshop to ensure that parents of asylum seeker and refugee children were made aware of government policies on access to primary school education and the existence of a system of exemptions for school fees for those who are unable to pay.

Most of the asylum seekers and refugees who had children of primary school going age that we spoke to were aware of the system of exemptions and had actively engaged with schools to obtain them. Since refugee communities have been informed of the work that LHR has been conducting on the issue of access to primary education, they were able to recognise the good work that LHR is currently undertaking. As some focus group participants commented,

*R: LHR office has done a lot on education even until now [Burundi, male, FG Pta].*

*R: Yes, yes (all)*

*R: There is someone helping refugee children to get into schools when schools around are full [DRC, female, FG Pta].*

*R: Yes, Shani<sup>31</sup> has been writing letters, they send pamphlets with information for refugee parents. They have been doing a lot [Rwanda, male, FG Pta].*

It would seem that asylum seeker and refugee communities are able to support the work undertaken by service providers if they are aware of the work that is being carried out. While it is always a challenge to work with refugee communities that encompass complex power relations and who often have their own ideas of what the priorities should be, an effort needs to be made to be very clear with refugee communities about the activities that service providers are undertaking, as well as the challenges that they, as service providers, also face.

---

<sup>31</sup> Shani refers to Shani Winterstein, Deputy Coordinator, Refugee Rights Project at Lawyers for Human Rights who has been in charge of running the asylum seeker and refugee children education programme.

## UNHCR

Even though the current study sought to focus on perceptions that asylum seekers and refugees have about UNHCR's implementing partners and their experiences in seeking assistance from these organisations, a number of asylum seekers and refugees interviewed throughout the study, unprompted, repeatedly made mention of the UNHCR. The comments expressed by participants usually portrayed the UNHCR in a negative light. As expressed in the introduction, since this study deals with perceptions of interviewees and focus group participants and they do not comprise a representative sample of the asylum seeker and refugee population in Gauteng, the comments expressed should be interpreted with caution. However, they could be indicative of sentiments held by asylum seekers and refugees on a broader scale. In the interest of paying attention to the concerns raised by asylum seekers and refugees in this study, and with a view to pinpointing specific areas for further intervention, these comments are included in this section of the study.

Different interviewees and focus groups participants often felt that the UNHCR, and in some cases its implementing partners, are not doing anything for asylum seekers and refugees. In this vein, a number of participants questioned UNHCR's mandate in South Africa because, in their opinion, they felt that they do not receive any help from UNHCR. As expressed by focus group participants,

*I certainly don't know the mandate for the UNHCR here in South Africa because they don't do anything for us [Burundi, male, FG Pta].*

*I have been in many meetings of UNHCR – it has been six years. They are always the same questions. Do you really know the problems of refugees? UNHCR knows the problems of refugees. The meetings continue, nobody does anything. People ask questions, they talk, they eat. My problem is this. There is no one in any of the organisations working with refugees that does anything. One must eat, drink, move around, and you need money to do all of this. Refugees are like other people who live normal lives, do the regular things that others do. Have they asked themselves the question of how do refugees live here? UNHCR does absolutely nothing. There is no organisation that takes care of refugees. Do they ask themselves the question: Are refugees beasts or human beings? And the children? Do they think of whether they eat if you have no work? [DRC, female, FG Jhb]*

*What I don't understand is why this country still wants to accept refugees. No one is welcome here. When you want to work, you can't find a job, you have to fight many conditions. Also, if you want to study, there are many conditions. If you are a big person with a small child, you can't do anything. So we can't understand: why do they want the refugees and say they are able to keep us? Even*

*when we go to the UN office, they say we would like to help you but now we don't have any money. So why can't they close that door and say there is no money for refugees and tell refugees to go elsewhere? [DRC, female, FG Jhb]*

*One of the important roles of UNHCR is local integration of refugees, secondary is voluntary repatriation and resettlement. In this case we are not talking about resettlement or voluntary repatriation, if in this case, UNHCR found out that it is more difficult to integrate refugees in this country, they must make the last decision, make it their responsibility, call all refugees and send them where they can find that life will be easier [DRC, male, FG Jhb].*

The comments above serve to highlight the frustration that asylum seekers and refugees experience while living in South Africa. Being in South Africa but not being able to support themselves, and in some cases their children, as a result of not being able to work or study often leads asylum seekers and refugees to blame UNHCR for not doing enough to ensure their well-being.

Along these lines, many respondents were concerned that UNHCR is not playing a *visible* role, through lobbying or litigation, in ensuring that asylum seekers and refugees are integrated into South African society, including having access to services and ensuring that the Department of Home Affairs abides by the different laws and regulations that affect asylum seekers and refugees. As different focus group participants commented,

*Home Affairs is dealing with the UNHCR, so we must take our issues to UNHCR or its service providers. It is not for refugees to lobby the government, according to the procedures. DHA says that they deal with UNHCR and they say that it is UNHCR that must raise the problems. So it is UNHCR who must go and lobby the government and work with DHA [Rwanda, male, FG Pta].*

*We don't have money as refugees now to pay our private lawyers to take DHA to the court. UNHCR – what is the role of UNHCR? Maybe UNHCR is there to assist the South African government, the SA government signed conventions to assist and protect refugees. So they must see whether the host country is respecting those rights or not. If not, they must take those issues to the court and say “You as the government agreed to do this, but you are not, what's wrong?” There is refugee law to protect us, why are they not implementing it? We are in between, you don't know if it is DHA? Is it UNHCR? We don't know. When you go to UNHCR, they say, no look, it is a problem of Home Affairs. You go to DHA and they tell you, you must go to UNHCR. They can't make a decision. At DHA they tell you: Don't waste my time! Who must lobby the government? I think it is the UNHCR and its implementing partners. They are there to lobby the government. If they don't want to comply, they must take the issues to the court,*



*but they pay private lawyers. I think that is a problem. People are getting money, and they are South Africans, but for us refugees who are suffering in South Africa there is no one to help. It is very difficult [Rwanda, male, FG Pta].*

While asylum seekers and refugees interviewed look to the UNHCR to protect them and to play an active role in ensuring that their rights in South Africa are respected, they do not seem to have a clear understanding of UNHCR's mandate in South Africa. According to the UNHCR's Assistant Representative in South Africa,

*It is important to remember that the primary role of UNHCR in South Africa is not to provide direct services and legal assistance to asylum seekers and refugees. The primary role of the UNHCR in South Africa – as in other countries – is to monitor and facilitate the implementation of the UN Convention. The role of UNHCR in South Africa is therefore mainly focused on building up the capacity of our implementing partners and the government, so that UNHCR in the future can leave more responsibility for implementation in the hands of the government and civil society. It is a common mistaken belief for many people who claim that the role of UNHCR as substituting or performing the job of the government and the NGOs. That is not the case<sup>32</sup>.*

In our discussions with service providers it became apparent that UNHCR necessarily approaches the situation of asylum seekers and refugees in South Africa differently from a camp situation where UNHCR and service providers invest more heavily to provide basic services. As some service providers indicated, the assumption by UNHCR in Geneva is that South Africa has an urban refugee population that can be integrated more easily into South African society through the acquisition of jobs. However, as one service provider who wished to remain anonymous indicated:

*South Africa has a different urban experience. It has 30-40% unemployment. South African's regime is not working well. Refugees are a marginalised, vulnerable group. UNHCR in South Africa should be fighting UNHCR in Geneva.*

In a meeting held with UNHCR, UNHCR explained that it is not the policy of UNHCR in Geneva to provide material assistance to urban refugee situations<sup>33</sup>. For this reason, UNHCR in South Africa finds itself having to justify to Geneva why assistance is needed in the South African case. The view about integration held by UNHCR in Geneva could probably be facilitated if asylum seekers and refugees were recognised as individuals who are able to work and study and therefore able to support themselves. However, as the situation currently stands, employers, government departments and institutions, as

---

<sup>32</sup> Mr. Abel Mbilinyi, Assistant Representative, UNHCR. *CASE National Survey: UNHCR Comments*, p.1.

<sup>33</sup> Mr. Tarik Muftic, meeting held between C A S E and UNHCR on 27/03/03, UNHCR Offices, Pretoria.

well as banks, for the most part do not recognise asylum seeker and refugee documents, thus denying asylum seekers and refugees their basic ability to sustain themselves and integrate into South African society, without having to call on the UNHCR for assistance. While some asylum seekers and refugees might qualify to receive assistance during the first three months, this does not help them in addressing their situation when they remain in the country for longer periods of time. Given this state of affairs, it could be argued that it is understandable why asylum seekers, refugees and some service providers might be demanding more from UNHCR than what its mandate outlines. Furthermore, their desperation in trying to survive and have their problems addressed might serve to explain why some asylum seekers and refugees interviewed indicated that UNHCR has not played a *visible* role in lobbying government to ensure that government respects and honours the basic rights of asylum seekers and refugees as protected in international conventions, the Refugee Act, and the South African Constitution.

According to the UNHCR, UNHCR is engaged in ongoing lobbying and negotiations with the government. For instance, it holds regular meetings with the Department of Home Affairs, with officials ranging from those who work at Refugee Reception Offices to the Minister of Home Affairs. UNHCR does not support a confrontational approach, which includes litigation, in dealing with the Department of Home Affairs. The work that UNHCR conducts through the various meetings and training with the Department tends to be of a diplomatic nature, away from the public eye. In other words, even though UNHCR seems to be lobbying the government, asylum seekers and refugees are not aware of these developments, thus leading them to feel that UNHCR does not do any lobbying work with the government or does not do anything for them.

When we asked the UNHCR about their achievements in working with the Department of Home Affairs, one of UNHCR's protection officers<sup>34</sup> indicated that UNHCR engages in thematic training on issues of concern to RSDOs from the Department of Home Affairs. In addition, through its intervention, UNHCR has managed to unblock the issuing of travel documents to refugees which had been stopped during 2002, and to assist the Department of Home Affairs in the issuing of ID documents. In this regard, UNHCR will be providing a number of interns to the Department of Home Affairs in order to clear the backlog of applications for the issuing of refugee ID documents<sup>35</sup>.

UNHCR commented that they have made some progress on the plan of action emanating from World Refugee Day 2001. At that meeting, UNHCR invited a number of line ministries and other stakeholders for a workshop where some of UNHCR's main priorities, namely education, health, housing, social development and safety and security, were discussed. During this workshop, recommendations were made on the formulation

---

<sup>34</sup> Isabel Marquez, Protection Officer, meeting held between C A S E and UNHCR at UNHCR Offices, Pretoria, on 27/03/03.

<sup>35</sup> While this should be seen as a welcomed development, IDs are likely to continue to be issued manually. For this reason, it remains to be seen whether the addition of a number of interns to assist DHA will make a significant impact in the production of refugee ID's.

and adoption of specific refugee policies with key government departments and it was suggested that UNHCR should play a leading role in initiating this process.

On 14<sup>th</sup> August 2001, UNHCR held a follow-up meeting with representatives from the Departments of Health, Home Affairs, Social Development and Safety and Security. Representatives from the departments of Health, Safety and Security and Social Development agreed to forward to the UNHCR lists of training needs on refugee issues so that capacity building can be undertaken with key individuals in these departments<sup>36</sup>. Moreover, as per one of the recommendations in the C A S E report produced in 2001<sup>37</sup>, the Department of Home Affairs indicated that they would be willing to review the format for capturing bio-data of asylum seekers and refugees and agreed that they would review a template to be forwarded to them by the UNHCR. Lastly, all departments agreed to comment on the recommendations incorporated into the 2001 C A S E report. According to the UNHCR, additional follow-up meetings, besides the one described above, have been held with government departments to realise the commitments agreed to on World Refugee Day. In this regard, it would be useful for the UNHCR to communicate the successes achieved through their interventions with government departments to asylum seekers and refugees, as well as implementing partners.

Even though UNHCR is engaging in lobbying work with the Department of Home Affairs, as well as other government departments<sup>38</sup>, there are a number of issues that can be highlighted in order to try to understand the negative perceptions that exist. Firstly, there is limited communication and contact with asylum seekers and refugees about the work that UNHCR carries out, a factor recognised by the UNHCR. Taking into account this lack of ongoing communication with asylum seeker and refugee communities, it should not be difficult to understand why asylum seekers and refugees might carry the negative perception that UNHCR does not do anything for them. One practice that could serve to improve communication is the recent implementation by the UNHCR of a system of consultation days when asylum seekers and refugees can go directly to the UNHCR for advice. As mentioned earlier, besides holding consultations in Pretoria, at the UN building, the UNHCR has also started consultations in Johannesburg at JRS offices the first Tuesday of every month.

According to UNHCR, asylum seekers and refugees from Johannesburg prefer to go to the UNHCR in Pretoria rather than to the Wits Law Clinic's offices in Johannesburg<sup>39</sup>. This seems difficult to understand, especially if one considers the higher transport costs that would be incurred by asylum seekers and refugees from Johannesburg in travelling

---

<sup>36</sup> Minutes from follow-up meeting on World Refugee Day workshop: "Refugee Life in South Africa: Building Partnerships for Better Solutions", 14 August 2001.

<sup>37</sup> F. Belvedere, P. Pigou and J. Handmaker (2001). *Realising Rights: The Development of Health and Welfare Policies for asylum seekers and refugees in South Africa*. C A S E: Johannesburg, 2001. Research conducted for UNHCR.

<sup>38</sup> UNHCR has been in negotiations with the Refugee Relief Fund, administered by the Minister of Social Development, to ensure that asylum seekers and not only refugees, are able to qualify for future emergency assistance.

<sup>39</sup> Ms. Isabel Marquez, Protection Officer, meeting held between C A S E and UNHCR on 27/03/03, UNHCR Offices, Pretoria.

to Pretoria. Moreover, UNHCR has not yet embarked on any formal campaign to announce to asylum seekers and refugees that these consultations are taking place. When we suggested to the UNHCR that the low attendance<sup>40</sup> might be due to the fact that asylum seekers and refugees are unaware of these consultations, UNHCR argued that people find out through word of mouth<sup>41</sup>. Yet, in our interviews in Johannesburg with Angolan and Somali asylum seekers and refugees, it became apparent that they did not know about the UNHCR consultations being held at JRS. As one Angolan interviewee put it,

*Since we don't know, we don't get assistance. As long as we do not know, we don't get anything. We have problems but we don't know where to go [Angola, female, Interview Jhb].*

Similarly, a representative from the Horn of Africa Society indicated that the Somali community was not aware of these consultations in Johannesburg. In this regard, when he was asked whether he knew about these consultations, he added,

*How do you expect us to hear about this when there is no publicity? [Somalia, male, Interview Jhb].*

In this vein, the comments expressed by a focus group participant in Pretoria would seem to indicate that he is not at all aware of the facilitated system of access that UNHCR is currently implementing. In his own words,

*Sometimes, you don't even have access. You say that you want to see a representative from UNHCR. I have problems, give me a chance to explain. They say, you must get a letter, you have to get an appointment and this can take more than one month or more. That is the problem. We don't even have access to go and explain to whom are supposed to help us [Burundi, male, FG Pta].*

While it is possible that the views above represent an exception to asylum seekers and refugees' knowledge about these consultations, UNHCR might still want to consider whether it should rely on a method as haphazard as word of mouth to communicate such important developments to its constituency.

Finding channels of communication with asylum seekers and refugees was raised as a matter of concern by the UNHCR. As the UNHCR Assistant Representative expressed this,

---

<sup>40</sup> Low attendance and the preference for asylum seekers and refugees from Johannesburg to go to the UNHCR in Pretoria were cited as the main reasons for the reduction of UNHCR consultation days in Johannesburg.

<sup>41</sup> Ms. Isabel Marquez, Protection Officer, meeting held between C A S E and UNHCR on 27/03/03.

*...if the refugees were well organised – then UNHCR could increase its access to refugees through their associations. Urban refugees in South Africa seem to be different in this regard<sup>42</sup>.*

However, there are a number of refugee associations in both Johannesburg and Pretoria. In Pretoria, the main association is the Pretoria Refugee Forum, while in Johannesburg refugee associations include the Johannesburg Refugee Network, the Coordinating Body for Refugee Communities (CBRC), as well as the Horn of Africa Society. Working with these organisations can prove to be a challenge, as their representatives often have their own beliefs, political attitudes, demands, and in some cases violent reactions, which are not conducive to amicable cooperation. Additionally, there are perceptions amongst implementing partners and other entities working with asylum seekers and refugees that some of these organisations are not legitimate or that they are not truly representative of asylum seekers and refugees.

According to the UNHCR, their own experiences in trying to approach some of the existing refugee organisations have informed their decision to want to bypass meetings with them. For instance, in cases where UNHCR has attempted to hold meetings on thematic issues with members of these organisations, some of them have turned violent, to the point of making some UNHCR representatives fear for their own personal security, because asylum seekers and refugees are mainly interested in being resettled by the UNHCR. Considering the tensions that exist, and in the interest of improving channels of communication, it might be useful for UNHCR to examine why asylum seekers and refugees have violent reactions to UNHCR's presence or why they constantly emphasize the issue of resettlement. It is possible that asylum seekers and refugees are struggling on a daily basis to survive, to access employment and services that could facilitate their integration and therefore act out their frustrations because they want to see a short-term solution to their problems.

Secondly, and also linked to the issue of communication, UNHCR's work with government is of a long-term nature, whereas asylum seekers and refugees who are struggling to survive in the here and now want short-term solutions, such as those that could be brought on by litigation. While it is not UNHCR's mandate to carry out the work of the South African government or to engage in litigation with it, it is likely that asylum seekers and refugees expect UNHCR to assist them with their immediate problems and intervene on their behalf with the South African government, and specifically, with Departments such as Home Affairs. In this sense, while not knowing its mandate, they might expect UNHCR to force the South African government to comply with the UN Conventions and the South African Refugee Act, if need be through litigation when no felt changes are taking place. It is important to keep in mind the different time frames that UNHCR on one hand, and asylum seekers and refugees on the

---

<sup>42</sup> Mr. Abel Mbilinyi, Assistant Representative, UNHCR. CASE National Survey: UNHCR Comments, p.3.

other, might have on ensuring the implementation of refugee policies and international conventions. This could assist in understanding the impatience expressed by asylum seekers and refugees interviewed in this study when referring to the UNHCR. Furthermore, ongoing communication with asylum seekers and refugees about the character of UNHCR's work, the gains made in negotiations with government departments, and their linkage to ensuring that long-term responsibilities towards asylum seekers and refugees are carried by the South African government might help to lessen the tensions that exist at present.

Thirdly, it might be necessary for the UNHCR to prioritise its interventions with government. It is important to point out that currently, UNHCR is relying on input from implementing partners as well as the results of the Phase I survey, amongst other sources, to identify priority areas for their interventions in 2003 and 2004. One of the areas that is likely to receive increased attention is that of documentation. In this regard, the UNHCR will begin to assist the Department of Home Affairs shortly to clear the backlog in the issuing of ID documents. However, the Assistant Representative for Protection<sup>43</sup> indicated that the UNHCR had not raised problems of access to the Refugee Reception Offices and the implementation of the Cape Town court order on the work and study prohibition with the Department of Home Affairs. Furthermore, he also indicated that no discussions have yet been held with the Department to initiate a public information campaign to make employers, banks and government institutions aware of the right of asylum seekers and refugees to work, as well as of the types of documentation that asylum seekers and refugees are being issued, including the maroon refugee ID.

Prioritising a limited number of interventions in the short-term, such as documentation and access to services, ensuring that they are consistently followed up and that developments are communicated to asylum seekers and refugees might enable asylum seekers and refugees to become better integrated into South African society, be able to sustain themselves, and recognise the impact that UNHCR is having on addressing pressing issues.

---

<sup>43</sup> Mr. Abel Mbilinyi, Assistant Representative (Protection), meeting held between C A S E and UNHCR on 27/03/03, UNHCR offices, Pretoria.

## **AREAS OF POSSIBLE INTERVENTION**

---

As the report has attempted to show, there are key issues that require immediate intervention. Many of these interventions, backed by findings from the Phase I survey, involve the Department of Home Affairs, especially as they concern the issuing of documents, the gaining of access to Refugee Reception Offices and the recognition of asylum seekers' right to work and study. However, there are other interventions by service providers as well as the UNHCR emanating from this current study that could be as important in ensuring that asylum seekers and refugees have access to assistance, and that they understand the work that the UNHCR is mandated to undertake and is currently undertaking. However, since these possible interventions arise from focus groups and interviewees with a limited number of asylum seekers and refugees, they should be regarded as possible suggestions that could lead to improvements in the provision of assistance and communication with asylum seeker and refugee communities.

### **INTERVENTIONS INVOLVING THE DEPARTMENT OF HOME AFFAIRS**

- With regard to the issuing of documentation, the UNHCR should begin discussions with the Department of Home Affairs to consider issuing asylum permits for a period of six months. If the six months expire without the Department having made a decision on applications, asylum seekers should be issued with permits that are valid for a further period of six months. Extending the validity of the asylum permits would also lead to a reduction in the workload of the understaffed Refugee Reception Offices.
- In addition to extending the validity of the asylum permits, the UNHCR, jointly with its implementing partners, should strongly suggest that the Department formalises these forms of identification, by laminating them and putting anti-forgery marks or marks that can only be seen with UV light, so that they can be more easily accepted by different entities. The permits' current form as multiply-folded pieces of paper with a number of stamps on them do not facilitate asylum seekers' and refugees' access to employment or a number of basic social and financial services as these documents are often perceived to be fake.
- While the Department of Home Affairs is meant to expedite the issuing of formal maroon identity documents to recognised refugees with the support of the UNHCR, the Department should move as soon as possible towards acquiring the computer software necessary to generate these documents quickly, rather than continuing to rely on their manual production, as a matter of just administrative action. The lack of formal ID documents that are issued to refugees serves as an

added barrier towards further negotiation on issues such as access to government grants, bank accounts and employment.

- With regards to the work and study prohibition and the recent court challenge in Cape Town, the UNHCR should engage in discussions with the Refugee Subdivision at the National Department of Home Affairs to ensure that the court challenge is honoured and that the prohibition is being lifted off every asylum seeker permit.
- The Department of Home Affairs, in conjunction with UNHCR and its implementing partners, must engage in a massive awareness campaign with government officials within key departments such as Health, Education, Labour and Social Development to make officials and administrative personnel working under these departments aware of what the different forms of identification issued to asylum seekers and refugees look like.
- The Department of Home Affairs must explore whether the Identification Act needs to be amended to ensure that maroon IDs are recognised as valid form of identification. It would seem that the only recognised form of identification at present is the green ID issued to South African citizens and permanent residents.

## **INTERVENTIONS INVOLVING SERVICE PROVIDERS**

- Wits Law Clinic could benefit from a public information campaign to raise its profile amongst asylum seekers and refugees living in Johannesburg.
- Lawyers for Human Rights could benefit from the production of information booklets that can be given out to refugee organisations, as well as asylum seekers and refugees, which outline the activities that it undertakes and the issues that it provides assistance with.
- Wits Law Clinic, Lawyers for Human Rights and other legal implementing partners outside of Gauteng should make attempts to develop a coordinated litigation strategy focused on precedent setting cases and cases of public interest. The NCRA could provide a platform to develop this joint strategy.
- Despite its attempts to publish their criteria, JRS should provide information sheets that clearly outline their criteria for the provision of assistance. It would be useful for these information sheets to be distributed to refugee organisations in Johannesburg and Pretoria, Refugee Reception Offices, as well as other service providers to lessen any problems over clarity of criteria for assistance.



- The UNHCR, in partnership with all its implementing partners, should produce A3 laminated posters that outline the different service providers in Johannesburg and Pretoria, with their contact details and consultation times, that can be posted at the Refugee Reception Offices in both Braamfontein and Marabastad. This will serve to inform newcomers who go to the Refugee Reception Offices about where they can go for assistance in a comprehensive way.

## **INTERVENTIONS INVOLVING UNHCR**

- The UNHCR, jointly with its implementing partners, should develop information sheets in different languages as part of a public information campaign to inform asylum seekers of the court challenge over the work and study prohibition, providing court case and date, and encourage asylum seekers to demand that this be enforced at Refugee Reception Offices. In order to improve communication between themselves and asylum seeker and refugee communities, UNHCR should provide information brochures that outline UNHCR's mandate, who are its implementing partners, as well as when and where UNHCR holds consultations. These pamphlets could be distributed to all service providers, refugee communities, as well as Refugee Reception Offices. Some of these pamphlets could be turned into posters that can be put up at the Refugee Reception Offices in both cities. UNHCR indicated that it has a booklet that could serve this purpose and expressed that it could be made available throughout the course of this year.
- While aware of the negative experiences that UNHCR has encountered in working with refugee organisations, it should make an attempt to meet with representatives from these organisations to inform them of their mandate, outline the ongoing diplomatic work that they undertake with the South African government, and to express their willingness to work with them in an amicable manner. If UNHCR is unwilling to engage in this course of action, it should consider holding quarterly public meetings in both Johannesburg and Pretoria, jointly with its implementing partners, to keep asylum seekers and refugees informed of their work and of any updates on changes to the implementation of refugee policies.
- In the short-term, UNHCR should continue its task of prioritising specific areas of intervention with the government in order to ensure that they begin to bear fruit. If UNHCR does not engage in ongoing and focused lobbying and advocacy, it is unlikely that the South African government will assume responsibility over asylum seekers and refugees, as they, unfortunately, currently do not represent a priority.

- The UNHCR could work jointly with its implementing partners and the NCRA to coordinate campaigns amongst service providers around particular issues, such as documentation, access to education and access to employment. This coordinated effort could possibly be used to obtain additional funding for campaigns and activities and could lead to greater success in tackling specific issues. Conscious focus on specific issues amongst service providers across the country could have a greater impact than the writing of letters to assist asylum seekers and refugees on a case-by-case basis.

# APPENDIX A

This Appendix provides details about the focus groups and interviews conducted during the course of this study. A total of two focus groups were conducted; one in Johannesburg and the other in Pretoria.

## FOCUS GROUP IN JOHANNESBURG

The focus group in Johannesburg was conducted at JRS offices, with members of the Johannesburg Refugee Network, an information-sharing network that groups together both refugee communities as well as service providers such as JRS, Black Sash and Wits Law Clinic. The focus group in Johannesburg was made up of 13 people: The breakdown was as follows:

Country	Sex	Number of people
DRC	Female	6
DRC	Male	1
Burundi	Female	1
Rwanda	Female	2
Uganda	Female	1
Angola	Female	1
Cameroon	Male	1
<b>Total</b>	<b>11 Females, 2 males</b>	<b>13 people</b>

Table 2: Breakdown of Johannesburg focus group, by sex, number and country

## FOCUS GROUP IN PRETORIA

The focus group in Pretoria was conducted at the offices of Lawyers for Human Rights, with members of the Pretoria Refugee Forum, which mainly serves as an information exchange network with members of different refugee communities. There were a total of 6 people who attended the focus group discussion.

Country	Sex	Number of people
Burundi	Male	2
DRC	Female	1
Congo Brazzaville	Male	1
Rwanda	Male	1
Somalia	Male	1
<b>Total</b>	<b>5 males, 1 female</b>	<b>6 people</b>

## **IN-DEPTH INTERVIEWS**

In-depth, face-to-face interviews were conducted with asylum seekers and refugees from countries that were not represented in the focus groups conducted, as well as with service providers and the Heads of the Refugee Reception Offices in Johannesburg and Pretoria.

### **INTERVIEWS WITH ASYLUM SEEKERS AND REFUGEES**

In both Johannesburg and Pretoria, collective interviews were conducted with three Angolan refugees, as Angolans were not represented in the focus groups conducted. The individuals interviewed do not belong to any refugee organisation. In addition, an interview was conducted in Johannesburg with the Executive Committee of the Horn of Africa Society, a Somali-based refugee organisation that provides social assistance to Somalis in both Johannesburg and Pretoria in order to complement the absence of Somalis in the focus group conducted in Johannesburg.

### **INTERVIEWS WITH SERVICE PROVIDERS**

In both Johannesburg and Pretoria, interviews were conducted with service providers, as well as the NCRA, which is a national voluntary network of major role players in refugee issues dedicated to the monitoring of policies, advocacy, lobbying and research. In Pretoria, the following interviews were conducted:

- ✓ Jacob van Garderen, Project Coordinator, Refugee Rights Project, Lawyers for Human Rights
- ✓ Joyce Tlou, Co-ordinator, National Consortium on Refugee Affairs

In Johannesburg, the following interviews were conducted:

- ✓ Abeda Bhamjee, Refugee Legal Counselor, Wits Law Clinic
- ✓ Sister Joan Pearton, National Director, Jesuit Refugee Services
- ✓ Uli Albrecht, Black Sash

### **INTERVIEWS WITH HEADS OF REFUGEE RECEPTION OFFICES**

- ✓ Mr. Ngozwana, Head, Refugee Reception Office, Braamfontein, Johannesburg
- ✓ Ms. Mahlangu, Head, Refugee Reception Office, Marabastard, Pretoria