



UNIVERSITY OF CAPE TOWN

REFUGEE RIGHTS CLINIC

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To: The Parliamentary Portfolio Committee on Home Affairs
Committee Chairperson, Adv Bongani Bongo

BBonngo@parliament.gov.za

And c/o Mr Eddy Mathonsi EMathonsi@parliament.gov.za

And to: The Parliamentary Select Committee on Security and Justice
Chairperson, Ms Shahidabibi Shaikh Shades@worldonline.co.za
And c/o Mr Gurshwyn Dixon GDixon@parliament.gov.za

28 April 2020

Dear Members of the Portfolio Committee on Home Affairs and Members of the Select Committee on Security and Justice.

RE: COMMENTS TO BE ADRESSED AT THE JOINT MEETING SCHEDULED FOR 28 APRIL 2020

INTRODUCTION

1. The Refugee Rights Unit is housed within the UCT Law faculty and it is a multi-functional unit, housing a LAW CLINIC (registered with the Legal Practice Council of South Africa), a Research UNIT which is duly recognised as such by the University's Research Body. The Refugee Rights Unit Teaches Refugee Law to Final year LLB students as well as at a master's level to LLM and M.Phil.

DIRECTOR: DR F K H A N (BA.HDE.LLB.LLM PHD)

ASSISTED BY: M SCHOEMAN (LLB PGDIP) S SADER (LLB) N RAYNER (LLB LLM)

CANDIDATE ATTORNEYS: S KRAAK(BA BScocSci LLB)M SIBANDA (BScocSci LLB) T MODUKANENE (LLB)

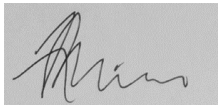
ADMIN: M KASSIEM

HONORARY RESEARCH ASSOCIATES: T SCHREIER, and L DE LA HUNT

students. It also provides direct legal assistance to approximately 5000 refugees and asylum seekers annually to navigate the complex asylum process in South Africa.

2. The topics of discussion of the Joint meeting scheduled for today include the services of the DHA rendered during lockdown and the closure of the Ports of Entry.
3. In regards to the above topic we have noted some concerns and questions for the Committees these will be addressed below. Should the Committees require any further information, we are happy to provide additional details.

Yours sincerely,



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TOPIC 2: Services to be rendered during the COVID-19 period;

During the COVID-19 pandemic we have become concerned about the lack of communication by the Department of Home Affairs in regards to their services that will be rendered during the lockdown and their risk adjusted strategy that will align with the various levels of the lock down. We therefore welcome the oversight of the Portfolio Committees and wish to raise the following concerns.

1. Our first concern is the lack of transparency of the Department of Home Affairs (DHA) during this crisis in regard to asylum seekers and refugees. It is unclear how the DHA asylum management plans to move forward in regard to the different strategies. Much of the communication thus far regards foreign nationals with visas acquired in terms of the immigration Act.
2. Our second concern are the services that have been paused by the Department of Home Affairs during the lockdown and the lack of consideration of the consequences of the pausing of these services. Although we agree that that Refugee Reception Offices are unable to operate at full capacity in order to curb the spread of the virus, we do not think the DHA asylum management has considered the full extent of the closure of the offices.
3. The Refugee Reception Offices have been closed during lockdown, resulting in asylum seekers and refugees being unable to renew their documents. Asylum seekers and refugees will be given, once the offices reopen, 30 days in which to renew their documents. Our concern is not necessarily with the closure but it is the lack of foresight and possible lack of communication from the DHA asylum management. The issue that arises is that asylum seekers or refugees with expired permits might have their bank accounts frozen on expiry of their permit. In the current climate this would be highly prejudicial for asylum seekers and refugees.
4. Another issue that has been brought to our attention through clients at the clinic is that refugees whose permits are to expire in April will be unable to collect their SASSA grants for May.
5. In regards to these issues we request the DHA work with the various other departments and banks to ensure this does not happen, and further communicate their solution to the various stakeholders. We suggest as a potential solution that the DHA place a moratorium to allow asylum seekers to continue to access financial services and their SASSA grants despite expiry of their permits if the DHA asylum management is unable allow remote access to the services of the Refugee Reception Offices.
6. In addition, we recommend, that similar to other Departments, the DHA develop a strategy to allow remote access to their offices so that asylum seekers and refugees are able to safely access the services of the Refugee Reception Offices. Although some services may be placed on hold, we believe the DHA can slowly introduce remote access to services over time instead of a complete closure. We request the Portfolio Committee to request whether the DHA has such plans in place.

TOPIC 3: Closure of Ports of Entry during the lockdown period.

1. We are aware of the difficult task that South Africa faces at the moment, however we remain concerned about the closure of the borders without any communication or consideration to South Africa's international law obligation on non-refoulement. We therefore request the Portfolio Committee to request from the DHA details on how South Africa will continue to respect the principle of non-refoulement during the lockdown period and in light of the risk adjusted levels after the hard lockdown.
2. A particular case was further brought to the attention of the clinic which has resulted in an asylum seeker, who is a mother of two minor children being unable to be reunited with her children due to the closure of the borders. The children, aged 8 and 10, were unlawfully removed from South Africa by their father, who fled to Zimbabwe. The father was caught in Zimbabwe and the children were removed. However, despite efforts to bring the children back to South Africa to their mother, due to the closure of the borders the children are unable to be repatriated.
3. There have been repatriations of South African citizens but no consideration of the repatriation in these types of cases. Although we are aware that these are rare examples, we would appreciate that the Standing Committee request that the DHA provide a solution to this situation during lockdown.