



Safeguarding Protection and Durable Solutions for Asylum Seekers and Refugees in Southern Africa

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Report of the Committee on Migration of the United States Conference of Catholic Bishops

TRIP DELEGATION

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Refugees waiting at a Transit Center in Zambia

In keeping with its mandate to carry out an annual mission trip to a country or region with a protracted refugee and or displaced persons problem, the United States Conference of Catholic Bishops (USCCB) Committee on Migration and USCCB Migration and Refugee Services embarked on a fact-finding delegation trip to three Southern African countries that are the subject of this report.

From August 28 –September 13, 2013, the delegation traveled to Zambia, Malawi, and South Africa to examine the situation of protracted refugee groups, those soon losing their refugee status, asylum seekers, and unaccompanied children. In these countries, the delegation met with a wide range of stakeholders including refugees, government officials, donors, governmental and non-governmental agencies providing services to refugees and asylum seekers in urban and camp based settings, Catholic and community- based organizations providing services to vulnerable groups, and advocacy organizations. Members of the delegation included Committee on Migration members, Bishop Eusebio Elizondo, Auxiliary Bishop of Seattle, Bishop John Manz, Auxiliary Bishop of Chicago, and Migration and Refugee Services staff, Johnny Young, Executive Director, Anastasia Brown, Director of Resettlement Services, Nathalie Lummert, Director of Special Programs, and Limnyuy Konglim, Refugee Policy Advisor.

Background

In recent years, migration and humanitarian actors have struggled with how to respond to the complexities of mixed migration movements in the Southern African region. Increasing numbers of migrants from the East, Horn, and Great Lakes regions of Africa are moving south in search of physical protection and better economic and livelihood opportunities. Unfortunately, limited legal and humanitarian resources meant for asylum seekers have been at times utilized by economic migrants. This has caused some governments to implement stricter border policies and restrict access to critical protection mechanisms, thus negatively impacting genuine asylum seekers. While states and non-governmental stakeholders have focused on making changes to migration policy and its implementation, some host communities have become impatient and resentful of the increasing presence of foreign nationals in their communities and the subsequent strain on local resources.

In Malawi, for example, despite a long history of hosting large numbers of refugees, the government and citizens have faced challenges in how to respond to mixed migration trends and been pressured by neighboring countries to tighten their borders. Malawians were at one time open to temporarily protecting vulnerable groups; however, the changing demographics and length of stay of refugees and asylum seekers has made them indisposed to sharing their already scarce resources without a clear sense of when the situation might

change. In South Africa, since the 2008 widespread attacks on foreigners, migrant protection, or lack thereof, has been largely associated with xenophobia. The notorious attacks resulted in at least 60 deaths and the displacement of roughly 100,000 people. Subsequent to the incident, the government of South Africa pledged to investigate the incidents and put mechanisms in place to ensure that all foreigners in the country would be protected, but little progress has been made. And while thus far, the geographical vastness of Zambia and the placement of refugee settlements in the northern rural region of the country have enabled favorable relations between refugees and host communities, limited donor investment in humanitarian, development, and long-term integration programs places this hospitality at risk.

Zambia

Since the 1960s, Zambia has shown an overwhelming level of generosity in welcoming and hosting refugees. Today, the government of Zambia has taken its generosity a step further by showing exemplary leadership in its delivery and implementation of services for refugees and asylum seekers. In an era when humanitarian space has been rapidly shrinking, this is particularly commendable.

According to the United Nations High Commissioner for Refugees (UNHCR), as of June 2013, Zambia hosts almost 52,000 refugees, asylum seekers, and populations of concern. The majority are from the Democratic Republic of Congo (17,200), Rwanda (6,050), and Somalia (2,300). There are also an overwhelming

Refugee Home in Meheba Settlement, Zambia.



number of former Angolan refugees that as of July 31st have lost their refugee status (23,600). Zambia implements an encampment policy, wherein the majority of refugees reside in Mayukwayukwa and Meheba refugee settlements. An unknown number of long-staying refugees, particularly the Angolans, have “self-settled” throughout the rural areas around the formal refugee settlements. During this assessment mission, the delegation visited Meheba refugee settlement, which as of July 2013 hosts some 18,000 people.

Access to Basic Services and Livelihood Opportunities

Meheba refugee settlement was established in 1971 at the peak of the Angolan war. In an effort to properly respond to Angolan refugees, the government of Zambia allocated a great deal of land (720sq/km), an area that is equal in size to the country of Singapore, to allow refugees to farm and self-sustain themselves through agricultural productivity. Under Zambian government policy, this self-subsistence model differentiates “settlements” from “camps”, wherein the population in the latter is provided with monthly food rations. This has proved to be a very effective arrangement for Angolan refugees and they continue to thrive until today.

In recent years, however, Zambia has received an increasing number of Congolese refugees, who have struggled under the self-subsistence model. The majority was not subsistence farmers and largely relied on trade and other market-based income generating activities for their livelihood prior to fleeing their home country. Until July 2013, the World Food Program was providing food assistance to vulnerable groups, but they have recently stopped all assistance to refugees thereby creating a food crisis in the settlement. Currently, limited funding only allows UNHCR to provide food assistance to the extremely vulnerable- recent arrivals, the elderly, disabled, ill, and unaccompanied minors.

Because Zambian law does not grant refugees the right to work without sponsorship by an employer, refugees that have been unable to farm their land have faced extreme hardship. There are income generating projects in the camp and there is a high demand, but only 1,000 households out of over 5,500 are able to enroll due to limited funding. UNHCR has also sponsored a market day for roughly 50 refugees who were able to transport their goods outside of the camp for sale, but limited funding and transportation vehicles has prohibited this from regularly occurring.

The vastness of Meheba settlement has afforded refugee families a great deal of privacy and space, but it has also posed a logistical challenge for service delivery. The camp is divided into eight “blocks”. Social services are located in Block D, the center of the camp. Traveling several kilometers to the center of Meheba is difficult for those who live on the outskirts of the camp and lack transportation. Refugees and implementing partners also face difficulty accessing vulnerable populations including the sick and disabled who are immobile. Due to limited funding, most implementing agencies operating in Meheba have one vehicle which they share among staff. Traveling the length of the camp can take up to two and half hours during

the dry season, and many more when roads become impassable during the rainy season. At its peak, in 2003, the settlement hosted 47,670 refugees. Today, with fewer inhabitants, UNHCR has begun planning to relocate refugees closer to the center of the camp, but this will take time and resources.

Though the government of Zambia has been quite hospitable to refugees, its reservations to the 1951 Refugee Convention have impeded comprehensive refugee protection and sustainability. Refugee restrictions include the right to freedom of movement, education, employment, and travel documents. Upon request from the Zambian Ministry of Home Affairs, refugees can be granted permission to live outside of the refugee





Unaccompanied and separated refugee minors playing at the Safe Haven for children in Meheba Settlement, Zambia.

families decide on additional fees for upkeep and to supplement teacher salaries. In urban areas, some refugee families are charged exorbitant amounts for schooling because they are foreigners. UNHCR can only supplement this fee for families that were given permission to live outside of the settlement. Some Congolese children that are able to assimilate change their names in order to get fairer access to schooling. Families that cannot afford the fees send their children to community schools.

Child Protection

There are 420 unaccompanied and separated children known to be in Zambia. Implementing agencies work diligently and proactively to identify unaccompanied and separated children and secure safe spaces for them through the unaccompanied minor Safe Haven in Meheba, the asylum transit center in Lusaka, and communi-

ty-based foster care arrangements. However, these are temporary placement arrangements and do not provide durable solutions for children. Unaccompanied refugee minors cannot be placed in Zambian children's homes because they are overcrowded and the centers are not willing to accept them. Many families do not keep foster children long term because they are not provided with financial assistance. Additional dependents are viewed as a burden and many times end up being abused in the home. The camp's vast area makes it difficult for social workers to regularly visit children placed in foster care arrangements.

settlements on the basis of medical needs, employment, education, security, or family unity. According to the UNHCR, roughly 8,000 refugees have been granted this permission, but many more have "self-settled" and integrated in rural and urban areas and are unaccounted for. Refugees and asylum seekers get along well with the local community and do not feel as though their physical safety is threatened. This is particularly true for Angolan refugees, who have lived in the country for decades and are largely self-reliant. However, undocumented refugees, especially children, are at greater risk of exploitation and human rights abuse. Some children may have been born after their parents began living "underground" and never registered with UNHCR or the Ministry of Home Affairs, putting them at risk of statelessness. However, families that have successfully "self-settled" are unwilling to jeopardize the socioeconomic progress they have made in hopes that one day, they will be able to legally integrate.

Schooling is a challenge for children in Meheba because of the vastness of the settlement and insufficient resources for nursery aged children and those with special needs. Some blocks have supplemented the shortage of schooling by establishing "community" schools, wherein refugee children are taught by other refugees who may have completed secondary school, but are not certified teachers. Only access to primary schooling is guaranteed for refugee children and though it is free,

ty-based foster care arrangements. However, these are temporary placement arrangements and do not provide durable solutions for children. Unaccompanied refugee minors cannot be placed in Zambian children's homes because they are overcrowded and the centers are not willing to accept them. Many families do not keep foster children long term because they are not provided with financial assistance. Additional dependents are viewed as a burden and many times end up being abused in the home. The camp's vast area makes it difficult for social workers to regularly visit children placed in foster care arrangements.

UNHCR, UNICEF, the Ministry of Social Welfare, and Ministry of Home Affairs conduct best interest determinations (BIDs) for unaccompanied refugee minors (URMs). However, the delegation heard of instances where resettlement is identified as the durable solution, but the cases have been placed on hold at the Resettlement Hub in Pretoria presumably for family tracing. In some instances, cases were on hold for over 2 years and the minors aged out of the URM program. For example, the delegation met a refugee with a critical protection need that has been living in the transit center for years. He does not have the community support necessary to sustain himself in the camp or on his own. He has been awaiting resettlement for years, but by the time he is resettled he will be over the age of 18 and not eligible for the URM foster care system.

Lack of Corporate Responsibility

The city of Solwezi not only plays host to tens of thousands of refugees, but also several mining companies. Unfortunately, however, local communities have not benefitted financially or developmentally from the presence of these companies. Large trucks travel on unpaved roads, creating large swaths of dust and potholes, yet little has been seen in the form of community investment. Health and educational facilities in and around the refugee settlement are free and open to refugees and local community members, including the increasing number of miners and their families. This has created a burden on public health facilities which are not equipped to meet the additional demand on medication and supplies. Though miners, but not their family members, are provided with health services by their employers, some seek out HIV/AIDS anti-retroviral medication from the public health clinics in order to keep their health conditions undisclosed to their employers.

Refugee Integration

Refugees and implementing agencies in Zambia face several challenges, many of which can be mitigated with donor assistance. It is important that the international community show support to the government of Zambia so that their hospitality is appreciated and potentially emulated by their neighbors.

In the last year, the refugee cessation clause has been invoked by Zambia for Angolan and Rwandan refugees. However, Zambia has continued its pattern of generosity by offering Angolans the opportunity to locally integrate and maintain the land that they occupied while living as refugees. As of June 2013, roughly 3,200 Angolans have applied for permanent residency and this number will continue to increase. Zambia has also indicated that it will extend local integration to Rwandan refugees as well, but the operating guidelines will not be released until the end of the year. Both exercises are sure to be costly for the government of Zambia, but should be encouraged and supported so as to serve as a good example for the international community.

Recommendations

- Donors should provide UNHCR with funding to

provide at least 6 months of food assistance to newly arriving refugees and continuous food assistance to extremely vulnerable refugees.

- Donors should provide funding for technical assistance for child protection actors in Zambia. They are working well together, but need additional expertise and training to establish community-based protection mechanisms for URM in the settlement and capital.

- UNHCR and child protection actors should ensure that the BID process results in the actual implementation of the durable solution recommendation and is not only utilized as a means to place children with foster families.

- UNHCR should provide its staff with clear guidelines on the timeline for family tracing of URM referred for resettlement in order to prevent lengthy delays in the implementation of a durable solution. When a BID has determined resettlement as the appropriate solution, a referral should be completed as expeditiously as possible.

- UNHCR and UNDP need to work with the government of Zambia to develop and promote a refugee integration plan in order to generate donor interest and long-term investment.

- Donors should invest resources in the education sector so that formal schooling is more accessible to refugees.

- Donors should invest in livelihood programming, particularly enhanced education related to subsistence horticultural practices and non-farming based initiatives, so that refugees are able to generate income to supplement the resources that they need.

- Donors should assist the government of Zambia in fully realizing the successful integration of Angolan and Rwandan refugees, including assistance with documentation fees and self-sufficiency programs.

- Donors should financially support UNHCR's plans to consolidate and relocate refugees to the center of the camp. As this will be timely exercise, in the interim, donors should provide implementing partners with additional transportation resources to access and better protect vulnerable populations in the camp.

Malawi

Malawi has a long history of receiving refugee groups, stretching back to the Mozambican war, when it hosted roughly 1 million refugees from the 1970's through the 1990's. During that time, the country was overwhelmed by the increasing population's impact on local resources, however, most refugees stayed close to the border and returned home once conditions in Mozambique stabilized.

Currently, Malawi hosts some 18,000 refugees and asylum seekers, the majority from the Democratic Republic of Congo (8,200), Rwanda (5,000), and Burundi (3,600). Malawi enforces a strict encampment policy for refugees and the only camp in the country, Dzaleka, is located roughly 45km outside of the capital city, Lilongwe. Refugees in Malawi do not have the right to work (unless they are sponsored by an employer) and must obtain permission from the Ministry of Home Affairs (MHA) to travel more than 5km outside of the camp for medical, and in very limited cases, educational and employment reasons.

Growing Xenophobia

Despite the restrictions that Malawi has imposed on the freedom of movement of asylum seekers and refugees in the country, there is growing xenophobia among Malawian nationals towards the increasing number of migrants. Refugees cannot live outside of the camp without permission, but if they have goods, they can sell them in markets surrounding the camp. Some refugees also illegally travel to the capital and set up shops. For this reason, locals view refugees as competition for business and limited local resources. They wrongly believe that refugees have been given cash assistance by UNHCR to start a business, while Malawians struggle with a faltering national economy and food crisis.

In an effort to promote harmony between refugees and host communities, humanitarian actors have built health and educational facilities in and around Dzaleka camp that are free and accessible to everyone. Unfortunately, isolated conflicts between refugees and host communities are widely reported and at times mischaracterized by the press and security forces. Though this incites revenge and retribution by locals towards refugee groups, the Malawian government has not taken steps to combat growing xenophobia and has in many instances

fueled public animosity. With presidential elections in Malawi set to take place in May 2014, it is likely that anti-refugee sentiment will be used as a tool by politicians to solicit support.

Asylum Screening and Adjudication

No refugee groups in Malawi are given prima facie status. All asylum seekers must go through the formal refugee status determination (RSD) process that is conducted by the Ministry of Home Affairs, Refugee Status Determination Unit with technical support provided by UNHCR. Due to lack of political will, there is an extensive backlog on adjudications. Over 10,000 asylum seekers are living in Dzaleka Camp awaiting interviews, many for almost two years. According to Malawi's Refugee Act, a very high level Refugee Committee made up of Cabinet members must meet to finalize RSD for asylum seekers. However, this committee has not met in almost two years (as of September 1, 2013), nor have they delegated representatives to meet on their behalf. Malawi's RSD approval rate is about 95%, but until the Refugee Committee meets to sign off on the decision of the RSD Unit, applicants are still legally considered asylum seekers. This delay also impacts UNHCR's ability to move forward with resettlement cases as there has been no formal determination of refugee status. UNHCR has been able to intervene in critical cases, but this obstacle is unnecessary and avoidable.

To compound matters, in recent years Malawi has seen an influx of arrivals of asylum seekers and has been grappling with how to respond to mixed migration. The government is very concerned about the security implications of mass migration into the country. The transit center in Karonga, northern Malawi, and Dzaleka camp are often being used by smugglers as a rest stop for migrants and asylum seekers continuing on to South Africa. The Ministry of Home Affairs reports that an average of 200 asylum seekers is being screened each day with another unreported number being intercepted and deported. Border agents have not been provided with training or guidelines on the treatment of minors that have been intercepted and the MHA acknowledges that specific training is needed in this regard. The International Organization for Migration (IOM) reports that approximately 500 irregular migrants from Ethiopia pass through Dzaleka refugee camp each month. The migrants typically do not register with



Bishop Manz and Bishop Elizondo speaking with Church leaders and altar boys in Dzaleka Camp, Malawi.

camp authorities, but at times take advantage of health services, income generating activities, and the camp's communication network. Because there is such a long RSD backlog, many asylum applicants are often found to have already left the country by the time their cases are called for interview. Additionally, another 1,000 rejected asylum seekers have been long-term residents of the camp, while they await deportation. This angers government officials, who feel that the asylum system is being abused and public threats have been made to close or relocate the camp to the border. These individuals have access to the same scarce resources as the other camp populations.

Access to Services, Livelihood Opportunities, and Security

Dzaleka camp is overcrowded and there are insufficient resources for humanitarian agencies to properly provide for the population. Refugees receive 11.5 kg a month in food rations which includes oil, maize, and corn soya blend, but no critical non-food items (NFI). Refugees told the delegation that their rations usually run out before the end of the month. They are not legally allowed to work to generate additional income to buy food and supplies causing extreme desperation in the camp. Girls as young as 9 have been forced to engage in "survival sex" in order to supplement their family's food package. A limited number of extremely

vulnerable households (the elderly, disabled, and female and child-headed households) receive supplemental assistance with firewood and some NFIs, but there is rampant theft throughout the camp, and these vulnerable groups are often targeted because they cannot protect themselves. The delegation heard examples of disabled refugees that were the victims of sexual violence.

There is not enough security in the camp. Due to the ethnic diversity of the refugee populations, there has been a great deal of tension and physical conflict between groups over public representation, access to services, and the resettlement process. Security forces within the camp are severely outnumbered. Shifts of 8 police officers at a time patrol a population of 18,000. The police squads are un-

derpaid and sleep in tight quarters. To prevent fatigue, the officers conduct monthly rotations. Most officers have been rotating in and out of the camp for years and know the population well. Unfortunately, for this same reason, they have become desensitized to the volume of complaints that they receive due to previous incidences of fraud. In 2011, security claims were being exploited by some refugee groups as grounds for resettlement. This led to a significant increase in false claims in an effort to obtain police reports to present to UNHCR resettlement officers. This has resulted in camp staff and police officers being skeptical of all claims that they receive. Refugees in the camp told the delegation that they no longer report crimes and when they do, they go uninvestigated. UNHCR has adjusted its resettlement criteria and is prioritizing protracted refugees to standardize the process and deter fraud. However, the delegation is concerned that refugees with genuine and immediate protection needs may be neglected and left with no form of protection- even in the short term.

Accessing education in the camp is also challenge. Primary school is well attended; however, due to the shortage of government schools and teachers, less than 10 percent of refugees can continue on to secondary school. Refugees cannot access tertiary schooling at all, except in extremely rare cases. To fill this gap, Jesuit Refugee Services is implementing online educational and vocational training programs. Unfortunately, due

to limited funding, only 30 students are admitted into the educational program each year and another limited number enrolled in the vocational training programs. Competition is very steep and those that are not granted entry into either program are left idle with no prospects for the future.

Child Protection

Currently, child protection capacity in Dzaleka camp is weak. There are 414 unaccompanied and separated children living in the camp. Most of these children are living with extended relatives or family friends in informal arrangements, but at least 10 child-headed households have been identified in the camp. Implementing agencies have had a great deal of difficulty in identifying foster families due to minimal incentives for families to take in additional children. For those that have volunteered to foster, there have been several reports of abuse and neglect. Thus, many children would prefer to live on their own. The implementing agency responsible for child protection in the camp does not have the capacity to conduct regular home visits and has not been trained on conducting best interest determinations (BIDs). As of September, only 1 BID has been conducted in 2013. Teen pregnancy rates in the camp are high due to rampant “survival sex”. Older men “marry” young girls and force them into prostitution for cash, food assistance, and NFIs. Some girls leave the camp to become domestic workers in nearby towns, but then return back to the camp pregnant. Nothing is being done to punish perpetrators, but teen mothers become stigmatized in the camp community as the issue continues to grow. In August 2013 alone, 4 newly pregnant girls were identified- one as young as 13. The delegation was told by one worker that they are no longer shocked to see young girls with 2 or 3 children of their own.

No Path for Refugee Integration

The government of Malawi does not feel supported by the international community and does not want to take on the burden of integrating long-staying refugee populations. The status of Rwandan refugees is scheduled to cease at the end of the year, but the Ministry of Home Affairs has publicly stated that repatriation or resettlement should be prioritized by humanitarian agencies because local integration will only be offered to a very select few refugees in highly skilled professions. However, Rwandan Hutus do not want to go back to

Rwanda because they fear government oppression. Some refugees told the delegation that they attempted to return home previously, but were not granted access to land, could not reclaim their property, and feared being implicated by traditional courts about what happened during the genocide. Many expressed a preference to die in Malawi than face their fate in Rwanda. One refugee in particular told the delegation “you might as well kill and bury us here because we are not going back.” Despite this fear of return, the government of Malawi is unlikely to shift its approach to refugee integration.

Recommendations

- Donors should invest in improving security in Dzaleka camp through funding for additional police officers, improved housing quarters, and human rights and sensitivity training.
- Since the International Organization for Migration has been invited by the government of Malawi to operate in the country, IOM should encourage the government to prioritize improving its border screening mechanisms in order to improve its response to irregular migration and the identification of asylum seekers, particularly unaccompanied minors.
- Donors should provide continued support for the permanent staffing of UNHCR Child Protection staff and a Best Interest Determination specialist, who should process the backlog of BIDs, and train local implementing agencies on guidelines for the care of unaccompanied and separated minors.
- Donors should provide UNHCR with funding to increase its resettlement staff and capacity to identify and refer critical protection cases. Donors and UNHCR should also recognize the government of Malawi’s aversion to hosting long-staying refugee groups and increase its resettlement quota for the country.
- The international community should put pressure on the government of Malawi to convene the Refugee Committee or delegate the appropriate representatives to clear the backlog of asylum seekers awaiting final decision on their refugee status. Those found not to be in need of international protection should not remain in the same camp as the refugees.
- Donors should invest in livelihood programming so

that refugees are able to generate income to supplement the resources that they need and not resort to dangerous survival tactics.

- The Sexual and Gender Based Violence working group needs to strengthen its leadership in order to combat increasing desensitization in the camp towards sexual violence. Community members and police forces need to be trained on human rights, child rights, and Malawian law to prosecute sex offenders.
- UNHCR should work with local journalists to publicize stories on the positive contributions that refugees make to Malawian society. The United States should share best practices and offer financial support in this regard.

South Africa

According to UNHCR, as of January 2013, South Africa hosts over 65,000 refugees and 230,000 asylum seekers. The majority of recognized refugees come from Angola, Burundi, the Democratic Republic of Congo, Rwanda, and Somalia. South African refugee and asylum law is quite promising on paper. Its non-encampment policy and right to work, study, and access basic services is attractive to migrants. The South African constitution itself sets out rights that are not exclusive to South African citizens and applicable to all foreign nationals, including refugees, asylum seekers, and unaccompanied minors. Because of this many migrants perceive South Africa to have a higher level of safety and greater economic opportunities available, than in their home countries. However, while the letter of South African refugee and asylum law is encouraging, inconsistent implementation, rampant corruption, and pervasive discrimination have created serious protection gaps for refugees and asylum seekers.

Access to Protection

Documentation is the basis of obtaining almost all protection needs for refugees and asylum seekers, but in South Africa, acquiring and maintaining valid documentation has posed the biggest challenge for this group. According to South African law, when asylum seekers present themselves at the border, they are issued an asylum transit permit, which they can then use to safely travel to a Refugee Reception Office (RRO) and officially apply for asylum. Previously, asylum

seekers were being given 15-day, non-renewable transit permits, but in recent years the validity period has been reduced. Because the permits are non-renewable, an asylum seeker that is apprehended by immigration officials when their permit has expired can be detained and deported.

However, during the delegation's visit to Musina, a border town, the delegation was told that as of April 2012 asylum seekers were not being issued transit permits at all. Their cases were being "fast tracked" and usually rejected on the same day. Since this change, the rate of asylum seekers granted refugee status has been abysmally low, including for Congolese and Somali asylum seekers with well-known grounds for persecution. This is also the case for Zimbabwean migrants, who are usually wrongfully assumed to be economic migrants, though many are in need of international protection. Zimbabwean asylum seekers are not being properly screened and international agencies, such as the UNHCR, are ceasing support for migrant shelters around the border which are believed to only house and support economic migrants. The decades long political crisis and documented attacks on opposition groups in Zimbabwe continues to go ignored. This has caused asylum seekers to avoid border posts by using more obscure and precarious routes to reach RROs in town, where they can apply for renewable asylum permits. These new routes are extremely dangerous and make migrants even more vulnerable to physical and sexual abuse, trafficking, and even death.

Since the middle of 2011, against heavy non-governmental organization (NGO) and civil society opposition, the Department of Home Affairs (DHA) closed RROs in Johannesburg, Port Elisabeth, and Cape Town and expressed its intent close RROs in major cities and relocate them to the international border areas. DHA has also instituted a policy dictating that asylum seekers and refugees must renew their permits in the RROs where their cases were originally filed. This has required asylum seekers and refugees to travel significant and costly distances in order to obtain and renew their permits. Long and repeated absences from jobs have also resulted in people losing their employment. In some cases, families have been forced to deplete their entire savings in order to avoid the risk of deportation. In other cases, refugees have taken the risk of purchasing permits from the black market, in order to have some form of documentation.

Asylum seekers who have safely reached Refugee Reception Offices face a new set of obstacles that for many, endures for years. According to South African law, asylum permits are free and provide asylum seekers with the right to work, study, and live in South Africa without fear of deportation. However, as the delegation was repeatedly told by asylum seekers, refugees, and human rights advocates, security guards at many RROs demand bribes before allowing applicants to enter the office. And upon entry, the amount that an applicant is able to bribe the translator or RRO officer, determines the length of validity of their permit. After successful NGO advocacy around the issue of corruption, from 2009-2012 a limited number of NGOs contracted with the Department of Home Affairs to serve as independent translators in a selected number of RROs. Through their presence, they were able to monitor, report, and discourage irregularities in the system. Unfortunately, these contracts were not renewed and the harassment and extortion of asylum seekers and refugees in RROs has reverted to that of prior years.

Asylum permits are theoretically supposed to be valid for 6 months, but due to rampant corruption many refugees complain of being issued permits that are only valid for 1 to 3 months. This causes asylum seekers without the funds to bribe officials or the confidence to demand what they are entitled to, to continuously return to the RRO to renew their documents. Many asylum seekers have been renewing their asylum permits for years and have yet to have a refugee status determination hearing. The delegation was also told that if an applicant had enough money to bribe refugee status determination officers, they could “fast track” their application and receive a refugee permit (renewable every two years) almost immediately after obtaining their asylum permit. Sadly, for refugees that were knowledgeable of their rights and advocated for their cases to be processed in a timely manner without bribes, their cases were “fast tracked” and rejected.

The process of constant renewal of asylum and refugee permits does not allow for the pathway to legal integration in South Africa. According to the law, one can eventually apply for permanent residency after holding a refugee permit for 5 years and then citizenship in an additional 5 years. The reality is that refugees are often in South Africa for 15 years or more as asylum seekers



Bishop Elizondo, Bishop Sipuka, and Bishop Manz celebrate Mass at the Southern Africa Bishops Conference in Pretoria, South Africa

without their case ever being adjudicated. This has had a dramatic impact on Angolans and Rwandans, who have never had the chance to adjust their status. Due to cessation, they are no longer recognized as individuals in need of international protection. This places them at risk of detention and eventual deportation if they do not obtain a passport from their home country and regularize their immigration status.

The delegation was unable to obtain permission from the Department of Home Affairs to visit the Lindela Repatriation Center, where undocumented migrants are detained subsequent to deportation. However, in meetings with non-governmental organizations and a South African government official to discuss conditions in the center, critical concerns were shared by actors on both sides. For example, due to the bureaucratic obstacles to documentation outlined earlier, it is not uncommon for genuine asylum seekers and refugees to be detained due to lack of or expired documentation and subsequently released once their case is appealed. Police profiling of migrants and demands for documentation are commonplace. Similarly, there are immigration night raids on businesses assumed to be employing undocumented migrants. A South African government official admitted that the “tips” often come from employers themselves, right before pay day. In these cases, the government is not only encouraging, but facilitating labor exploitation by arresting and detaining migrants who have worked for weeks without pay.

Though South African law stipulates that detainees

are not authorized to be held for more than 120 days, many are detained for months awaiting a decision on their appeal. Similarly, detainees are also held longer than authorized while the DHA awaits approval and transportation for the detainee to return to their home country. While reports of overcrowding in the center's holding cells could not be confirmed by the delegation, concern regarding insufficient health screening and services were communicated by all actors.

Additionally, the delegation is very concerned about the prevalence of children detained in Lindela, which has been widely reported. Though the Department of Home Affairs states that it is not its policy to detain children, detainees assumed to be minors are often not released until age verification processes are completed and/or human rights organizations come into contact with them and successfully advocate for their release. Furthermore, upon the release of the minors, there has been extremely weak coordination between the DHA and the Department of Social Development to ensure that the minors are protected and provided with safe care arrangements.

Access to Basic Services

South Africa's non-encampment policy allows for freedom of movement, but securing shelter is a serious obstacle for newly arrived asylum seekers. UNHCR provides funding for NGOs to assist an extremely limited number (some 300) of the most vulnerable asylum seekers for three months. There are also a limited number of shelters in urban areas and border towns that provide assistance to newcomers for the first six months. However, in that short period of time, asylum seekers must not only navigate the complicated asylum system, but also obtain work and save enough funds to maintain shelter. Some asylum seekers benefit from family and community support; however, the increase in xenophobia and government crackdowns on foreign businesses has made it difficult for long-staying asylum seekers and refugees to support newcomers.

Everyone in South Africa, including asylum seekers and refugees has the right to basic health services, which includes care for children under 7, pregnant women, and individuals requiring emergency treatment. For all other services, foreigners must pay the same as South African nationals to access the system. Unfortunately,

Squatter Homes in South Africa.



lack of knowledge by practitioners and discrimination towards migrants has often prevented asylum seekers and refugees from accessing critical services. Those who appear to be foreign are often asked for valid documentation though it is not required. It is important to note that in some areas South African nationals who lack documentation are also denied access to health and other socioeconomic services.

Child Protection

The presence of unaccompanied children in South Africa, particularly Zimbabwean minors, is not a new phenomenon. Many migrate in seek of livelihood opportunities and choose not to be identified and registered by child protection agencies or immigration authorities in fear of being sent back. In recent years, however, the number of Somali and Congolese minors arriving in South Africa without parents, relatives, or care-givers is on the rise. There are also a substantial number of Mozambican refugee children, who have been orphaned due to the HIV/AIDS pandemic and are now in essence stateless. The population of unaccompanied and separated children in South Africa is unknown. Conservative estimates range from 5,000-29,000.

Many of these unaccompanied minors go unidentified because they have grown up in remote areas without documentation and then become orphaned, are smuggled and eventually trafficked into the country, or purposefully misrepresent their ages in order to obtain access to the asylum system. Those that are identified have limited options for physical or legal protection.

There are not enough unaccompanied minor shelters in South Africa. Shelters located in border towns are overcrowded and do not adhere to child welfare guidelines. The shelter staff does not have the capacity or technical skills to deal with the challenges presented by the children in their care. Many children have traveled long distances, suffered physical, psychological, and sexual trauma, abandonment, and witnessed the loss of life of family members. Some shelters are so underresourced that though they have the infrastructure to house a large number of children, they are unable to feed them more than one meal a day or properly supervise them in the evening hours. In the urban areas, formally registered unaccompanied minor shelters are better resourced, but most have been at full capacity for years. Minors who enter the facility usually stay until they age out, leav-

ing a very limited number of spots available for new entrants.

South Africa has a national foster care system, but most foreign children are discriminatorily not provided with access to it. Some who have been placed with foster families were found to be trafficked and/or runaways and were taken in by community members from their home country.

The South Africa Children's Act is the primary source of protection for all children in South Africa, no matter their country of origin or legal status. Unfortunately, because the act does not explicitly reference foreign or refugee children, the manner in which child protection and immigration agencies should coordinate with one another on international child protection has not been made clear to stakeholders. Consequently, this omission has been utilized as a tool for exclusion and restricted access to services for unaccompanied foreign children by some agencies.

For example, the South African Department of Social Development is responsible for assigning social workers to minors in order to assist them in obtaining necessary documentation. However, the delegation was told of several instances where social workers did not know how or were unwilling to navigate the immigration system. This has especially been the case with minors who were caring for themselves or living with older siblings, leading social workers to deduce the child was not in need of care or protection and thus did not warrant a Children's Court inquiry. Without a Children's Court inquiry, in most circumstances, the Department of Home Affairs will not issue a minor documentation. This makes the child even more vulnerable to exploitation and impedes their access to educational and health services.

Additionally, while unaccompanied minors pursuing asylum have a path to documentation through the DHA, their case is required to be presented by a guardian. Since the social workers are often unwilling to facilitate this, the majority of unaccompanied minors is not provided with any form of identification and must use their Children's Court order as a means of access to services. They are then left to renegotiate their access to an asylum claim once they turn 18 and are no longer in the custody and care of the Department of Social Development. At this point they will enter the cyclical

process of renewals outlined earlier.

No Pathway to Integration

Legal and physical protection space for foreign migrants in South Africa continues to shrink. In recent years there have been major changes in implementation to asylum law without the government consulting stakeholders or providing clarity on the intent and purpose of the policy changes. The changes have not only placed additional burdens on asylum seekers and refugees in seek of protection, but prohibited vulnerable groups from even accessing the system. This has all taken place against a backdrop of increasing hatred towards foreigners. Poor South African nationals find themselves competing with migrants for limited resources and employment opportunities; all while they wait for what they envisioned in post-apartheid era South Africa to materialize.

In 2012, at least 140 foreign nationals were killed, and this year an average of 3 killings are being reported each week. Shops, usually owned by Somalis, are often burned and looted. Refugees and asylum seekers reported to the delegation that they stay trapped in their homes for weeks in fear of being attacked if they leave. Placed under duress, they are unable to work, go to school, or seek medical services. Reportedly, xenophobic attacks are not being widely publicized for fear that they may incite more hate crimes, but the rate of attacks is currently higher than that of 2008.

To stem the attacks, UNHCR is operating a hotline whereby it coordinates with local refugee leaders and the South African Police Service (SAPS) to report and respond to xenophobic threats and attacks. Though the hotline only operates in selected townships, it receives upwards of 1,000 reports per month. The police service has reportedly been responsive to the hotline reports; however, refugee leaders have reported that without UNHCR intervention, direct reports to SAPS go without response.

Additionally, though since 2008 the government has promised to pass comprehensive legislation, South Africa has no law that defines and criminalizes xenophobia or hate crimes. The Constitution and Criminal Code is currently utilized to protect migrants from discrimination based on nationality, but this approach has proven ineffective in successfully prosecuting perpetra-

tors and reducing occurrences of xenophobia.

For 2014, the UNHCR is projecting 5,200 cases will be in need of resettlement, with legal and physical protection cases, survivors of violence and torture, and women at risk being prioritized. However, until the government of South Africa takes its commitment to protect asylum seekers and refugees seriously, tens of thousands of people will fall into these categories. Self-sufficiency and long-term integration cannot be achieved in an insecure legal limbo and a real durable solution does not currently exist for most refugees in South Africa.

Recommendations

- UNHCR needs to play a stronger role in its advocacy for the right to documentation of asylum seekers and refugees. Obstacles to documentation are very well known; however, UNHCR has relied on quiet diplomacy with the government and has not publicly opposed rampant corruption and systematic impediments, such as the closure of Refuge Reception Offices that jeopardize the legal and physical protection of asylum seekers and refugees. UNHCR should hold the government of South Africa accountable to its own national laws and processes.
- Donors should provide funding to assist vulnerable newcomers to obtain shelter and other immediate humanitarian needs in South Africa.
- Donors should provide funding to expand income generating activities in South Africa.
- The Department of Social Development needs to put into place mechanisms that coordinate with child protection actors to proactively identify and document unaccompanied and separated children. The Department of Home Affairs and Department of Social Development need to establish a joint referral system that will facilitate the proper treatment, care, and family tracing of unaccompanied and separated minors while in government custody. A Best Interest Determination that examines all possible durable solutions for unaccompanied refugee minors should be in place in coordination with UNHCR.
- UNHCR, UNICEF, IOM, and NGOs with migrant child welfare expertise should continue to provide training to the Department of Social Development so

that case workers can properly respond to the unique vulnerabilities faced by foreign unaccompanied and separated children and fulfill their responsibility of facilitating minors' access to documentation and basic services. UNHCR should proactively refer unaccompanied minors whose Best Interest Determination indicates resettlement to be the best solution.

- The Children's Court should assign pro bono legal representation to minors in immigration proceedings, in order to ensure that permanency plans are developed that also address the child's legal status, in addition to long-term care and placement arrangements.

- The government of South Africa needs to more proactively condemn and combat acts of xenophobia, uphold its commitment to enact hate crime legislation, and scale up community- based programs that combat hate crimes and promote cultural and social cohesion. A public mass media campaign that highlights the positive contributions of migrants in South African society and how immigrants and nationals can work together to develop South Africa economically and socially would promote local integration. The United States should share best practices and offer financial support in this regard.

- Resettlement of refugees from South Africa has concentrated on victims of xenophobic violence. While this is an appropriate solution, the need for resettlement of particularly vulnerable populations is much higher. UNHCR should increase referral of the most vulnerable including women at risk, child-headed households, and unaccompanied refugee minors. Donors should increase the capacity of UNHCR to identify and refer such individuals, as expeditiously as possible.

- The government of South Africa needs to develop a more appropriate response to irregular migration and ensure that its border screening mechanisms appropriately identify and respond to the protection needs of asylum seekers, particularly unaccompanied minors.

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Glossary of Terms

BID- Best Interest Determination

DHA- Department of Home Affairs

DSD- Department of Social Development

IOM- International Organization for Migration

MHA- Ministry of Home Affairs

NFI- Non-Food Items

NGO- Non-Governmental Organization

RRO- Refugee Reception Office

RSD- Refugee Status Determination

SAPS- South African Police Service

UNDP- United Nations Development Programme

UNHCR- United Nations High Commissioner for Refugees

UNICEF- United Nations Children's Fund

URM- Unaccompanied Refugee Minor

USCCB- United States Conference of Catholic Bishops