



**National Seminar on ‘Promoting Access to
Social Security and Livelihoods for
Refugees and Migrants in South Africa’**

29-30 April 2010,

**Houghton Boardroom,
Johannesburg, South Africa**

Contents

Introduction and background:	3
Welcome Address	4
The Inclusion of Refugees and Migrants in social assistance programmes	4
Reflections on Extension of social assistance to Refugees and Migrants.....	6
Advancing Socio-Economic Rights for Refugees and Migrants:	9
Challenges faced by Refugees and migrants in accessing social grants	10
Field Experiences on accessing Social Assistance for Refugee Children.....	11
Promoting Livelihoods through the UN System	12
Promoting Livelihoods at JRS.....	14
Skills Development & Sustainable Livelihood	15
RECOMMENDATIONS	16

Introduction and background:

This seminar was organised by the Consortium for Refugees and Migrants in South Africa (CoRMSA) and Refugee Children's Project (RCP). Having realised the challenges that refugees, asylum seekers and migrants experience in accessing social security and promoting livelihoods in the country, RCP and CoRMSA decided to bring together researchers, practitioners and policy makers to:

- Deliberate on issues of social security as they affect migrant communities in South Africa,
- Consider how these communities can access and sustain their livelihoods in the country

Program/Agenda

The seminar agenda was divided into two days with the first day focusing on social security in South Africa and the second day on how to promote livelihoods for refugees and migrants in South Africa. To lead the discussions on the first day there were presentations from the Department of Social Development (DSD) and the South African Social Security Agency (SASSA) on the policy framework guiding the provision of social assistance to refugees and migrants and its implementation. This was followed by input from a research perspective analysing access to social security and livelihoods by the Forced Migration Studies Programme. The final presentations on the first day were on field experiences on access to social security from Refugee Social Services and Refugee Children's Project working with refugees and migrants. The second day of the seminar focused on the UNHCR programmes for promoting livelihoods for refugees, the Jesuit Refugee Services as well as the Agency for Refugee Education Skills Training Advocacy (ARESTA).

Welcome Address

Marivic Garcia-Mall

CoRMSA Executive Committee Member/ CSVR

The seminar began with a welcome address by Marivic Garcia-Mall, a member of the CoRMSA Executive Committee (also with CSVR) on behalf of the chair of the CoRMSA Executive Committee. The welcome highlighted that the seminar was conceptualised in 2009. This address also highlighted that livelihoods and sustainability are a challenge in working with forced migrants.

The welcome address further highlighted that Section 27 of the Bill of Rights provides for access to Health Care, food, water, shelter and appropriate social assistance and that these are extended to everyone. The context of South Africa is that there are no refugee camps and this provides a unique context within which to provide the rights provided for in Section 27 of the Bill of Rights. Participants in the meeting were also reminded that a lot of refugees and asylum seekers are excluded from the social security system because they work in contractual jobs and in the grey economy. There is however, social assistance for forced migrants and the discussions would consider the spaces through which these services are available and can be claimed by these groups.

The Inclusion of asylum seekers, refugees and migrants in social assistance/ social relief programmes

Thomson Sithole & Joe Molifi National Department of Social Development

The DSD presentation was divided into two parts, with the first part by Mr Sithole focusing on refugees' access to social assistance with a special focus on Disability Grants and the relevant legal framework. The second part by Mr Molifi focused on Social Relief of Distress and the related legal framework.

Mr Sithole started his presentation by indicating that the legal framework does provide for the inclusion of refugees, asylum seekers and migrants in social assistance and social relief programs. The presentation highlighted the following international and domestic legal instruments that have relevant provisions:

1. The UN Convention of 1967
2. AU Convention Governing the Specific Aspects of Refugee Problems in Africa of 1974
3. Section 27(1)(c) of the Constitution of South Africa which states that “everyone has a right to have access to social security, including, if they are unable to support themselves and their dependents, appropriate social assistance”
4. The Social Assistance Plan for Refugees with Disabilities which was approved by cabinet in 2007
5. Section 5(c) of the Social Assistance Act No 13 of 2004, which states that a person is entitled to the appropriate social assistance if he or she is a South African citizen or is a member of a group or category of persons prescribed by the Minister, with the concurrence of the Minister of Finance, by notice in the *Gazette*.

The above stated policy framework provides for refugees to access the Disability Grant and the Foster Child Grant in South Africa. Mr Molifi then highlighted the fact that Refugees are also eligible for the Social Relief of Distress Grant which is granted for a period of three months and is subject to availability of funds. He went on to highlight that:

- Section 13 of the Social Assistance Act No.13 of 2004; provides for the provision of Social Relief of Distress.
- The Social Relief of Distress Procedure Manual outlines who is eligible for the grant.

Discussion

Key questions that were posed in relation to the presentation by DSD were linked to the implementation of the policy presented. Many of the participants had experiences of refugees being denied the disability grant, foster child grant and the social relief of distress grant. Other questions focused on what measures DSD was taking to educate the frontline staff on the policies as members felt that implementers were not adhering to policy. A key question was asked on identifying the responsible department for non-national children as implementing organisations felt that there was no clear policy on children, especially

unaccompanied minors. Clarification was also sought on who carries the responsibility of implementing the policies presented. The DSD delegation felt that the questions highlighted to them were more relevant to the SASSA presentation and thus the discussion was postponed to follow the presentation from SASSA.

Reflections on Extension of social assistance to refugees and migrants and challenges experienced

Dianne Dunkerly

South African Social Security Agency (Head Office)

The presentation began with a brief introduction of the South African Social Security Agency (SASSA). The introduction highlighted that SASSA is a Section 3a Public Entity, which is the implementing arm for the DSD, that is, it is responsible for the administration of the DSD policies as well as broader social security issues. SASSA has nine provincial offices as well as eleven thousand pay points across the country. SASSA is guided by the Social Assistance Act of 2004 which leaves little room for discretion for the SASSA employees. However, there is some level of discretion in the Social Relief of Distress Grant.

The presentation then focused on the grants that refugees are eligible for and these are the disability grant as well as the foster child grant. Refugees are eligible for the disability grant, if they are aged between 18 and 60 years and have a disability that keeps them from working and providing for themselves. A Means Test is applied before the disability grant is given. Refugees are eligible for a foster child grant where the foster parents are refugees. The foster child grant is paid irrespective of the nationality of the child. The foster child grant is also paid if the caregiver is a South African or a permanent resident of South Africa. Therefore, refugees who are eligible for grants in South Africa are adults with a disability or foster parents. The grant is reviewed when validity of the refugee permit/ status is reviewed. If the refugee status is not extended SASSA cannot pay the grant. A detailed presentation on the application process was then given highlighting that one can apply without an identity document but would have to show proof that they have applied for it (the identity document) within three months of their application with SASSA. Refugees however must produce a valid document when applying, for instance, formal recognition of refugee status. The disability grant entails a medical examination by state appointed and trained doctors as well as a means test. The means test entails an examination of the assets and income of the

applicant in order to determine their eligibility. As of 1 April 2010 the following are the guidelines for the means test:

Table 1: Guidelines for the Means Test

	Single	Married	Notes
Assets	R518 400	R1 036 800	If the applicant has assets exceeding the above value they do not qualify for a disability grant however if the asset of value is a house they qualify but if they own a second house then they do not qualify.
Income	R31 296/ annum	R62 592/ annum	If an applicant has income exceeding these levels they do not qualify, and depending on the outcome of the test the grant is an amount between R100- R1080/ month

The foster child grant is not means tested however a Court Order is required and the grant is paid from the date of court placement. Recipients of grants are encouraged to receive the grant through a bank account as this provides them more options and is safer. The presentation was concluded with a highlight of the numbers of refugees that are currently receiving grants. A total of **14 057 365** people are receiving grants in South Africa and out of these only 55 are refugees. The table below shows the number of refugees receiving grants by province:

Table 2: Distribution of Refugees Receiving grants by Province

Province	Disability grant	Foster child grants	Total
Gauteng	4	3	7
Kwa Zulu Natal	15	18	33
Western Cape	15		15
Total Number of grants to Refugees	34	21	55

Discussion

The discussion on the SASSA presentation highlighted the challenges that refugees face in accessing grants. Identity documents were identified as a challenge to refugees' access to grants. For example, instances where the ID document is delivered to refugees already expired yet the status was still valid and to get a grant they are requested to produce a valid document, the foster child grant is in some instances hindered by the lack of an ID document for the child or cases where the Disability grant was approved and paid out, the refugee status was extended but the ID document had expired though the applicant had proof of application for a new ID but they were asked to re-apply for the grant.

Secondly clarity was sought on which department holds responsibility for the implementation of policy on social security and what training do the frontline staff members receive on how to implement the policies. This discussion was prompted by participants who had experienced refugees being sent from SASSA office to DSD, refugees who qualify for grants being turned away and low numbers of successful refugee applicants as well as contradictory outcomes of medical assessments. The SASSA representative acknowledged that there are significantly few numbers of refugees receiving grants as well as the other challenges highlighted relating to Identity Documents and also stated that there were steps being taken to correct some of the challenges. For example they have developed procedure manuals to ensure that frontline staff have the right information, they are meeting with the Department of Home Affairs with regards to identity Documents. In the meantime SASSA can take applications without an ID but this has presented an opportunity to apply without an ID and get the grant for 3 months and not apply for an ID. They also have a plan to roll out mobile services to various areas.

Advancing Socio-Economic Rights for Refugees & Migrants: Challenges & Strategies

Tara Polzer **Forced Migration Studies Programme (FMSP), University of the Witwatersrand**

The presentation focused on the significance of the context within which advocacy and other work done to claim the rights of migrants and refugees occurs. It highlighted that there is a social context as well as a legal context within which migrants and refugees claim rights. The social context influences the in-practice rights that people can access while the legal status determines what you can access and not what you need. In a social context it depends on how people around you see you whether or not you can access your rights and what rights can be accessed. Therefore when looking at the rights of migrants and refugees the legal and social context are significant issues to consider. The presentation then considered issues of vulnerability, which tend to be generalised. Several research studies were highlighted that showed that migrants and refugees are not always the most vulnerable in terms of Socio Economic status and this depends on nationality, whether they are rural or urban based, and their length of stay. The presentation also highlighted some strategies employed by refugees and migrants in claiming and enforcing socio-economic rights to include the following:

Among Migrants:	Among NGOs:
<ul style="list-style-type: none"> • Silence and invisibility • Negotiation with local resource holders • Negotiations with state: <ul style="list-style-type: none"> – Informal/individual: legit claims or fraud and bribery – Formal/collective: political, not administrative • Self-help, parallel services/protection • Some mobilization around refugee rights 	<ul style="list-style-type: none"> • Normative arguments • Legal arguments • Public Goods arguments

The Public Goods Argument for refugee and migrant rights was said to be the one which could have the most benefit in South Africa seeing that South Africa also has high levels of unemployment and poverty. Key lessons for the advancing of socio economic rights for migrants and refugees were highlighted as follows:

- To mainstream migration into government and civil society socio economic rights debates and programmes (SER as human rights and public goods, not citizen rights or migrant and refugee rights). Special focus on migrant rights can be counterproductive.
- To recognise and respect migrant and refugee strategies and fears, including suspicion of combative and public legal, mobilization and advocacy strategies.

Discussion

Discussion on this presentation highlighted some of the programmes that were already taking an integrated approach by including South African nationals in programs targeted at refugees and migrants. The Human Rights Commission reported that in their work, they highlight migrant and refugee issues as part of broader national programmes and this has had better reception. The JRS and Aresta are also including South African nationals in their programmes. FMSP highlighted that they are interested in collecting data towards the Public Goods Arguments in South Africa.

Challenges faced by Refugees and migrants in accessing social grants

Yasmin Rajah

Refugee Social Services (RSS)

The presentation highlighted the challenges that are faced by the Refugee Social Services in Durban in working with refugees to provide social assistance services. The Refugee Social Services work with refugees in Durban with the mandate of providing social services. The presentation highlighted challenges faced with SASSA as well as with the refugees themselves. As part of their work the RSS have also had programs of disseminating the right information on grants to refugees. In this they encountered challenges where some SASSA employees did not have the right information and therefore the wrong information was relayed to refugees. They also faced challenges with SASSA where there were inconsistencies in the outcome of applications for grants. For instance, in certain cases, grants were approved but then terminated prematurely, usually because refugees do not have identity documents and in cases where children are of mixed parentage where one parent is a refugee and the other a South African.

Challenges encountered within the refugee community included reluctance to apply for grants because of a perception that UNHCR partners had the responsibility of providing grants to

refugees. In cases of applications that were declined refugees were reluctant to follow up or appeal. Language constraints also posed great difficulty for refugees to access the grants. RSS also stressed on the issue of non-national children which is a big challenge because there is no clarity on which department has the responsibility for children and they are passed from one service provider to the next especially with regards to the placement of unaccompanied minors.

Discussion

The discussion showed that some of the challenges faced in Durban are also experienced in other provinces. Cape Town participants in the meetings reported that children received protection regardless of having documents or not. However, there was consensus that there is a need to bring together various government departments, namely Social Development, Justice, Home Affairs and other stakeholders to deliberate on the protection of non-national children in the country and clarify roles for the various role-players.

Field Experiences on accessing Social Assistance for Refugee Children

Germain Mukandama

Refugee Children's Project (RCP)

The Refugee Children's Project (RCP) is based in Johannesburg and employs a Participatory Learning Approach to work with refugee and migrant children. In their work they found that migrant and refugee concerns include: Education, Health, Social assistance such as grants and Accommodation. The presentation highlighted a number of challenges that refugees and migrants face in accessing the above mentioned issues of concern.

Discussion

The discussion of the RCP's presentation highlighted that many of the issues that were presented as challenges for refugees were of equal challenge to South African nationals and therefore, there is a need to address these challenges in the broader social context within which they are experienced

Promoting Livelihoods through the UN System

Sergio Callenor Norena United Nations High Commissioner for Refugees (Pretoria)

The presentation from UNHCR highlighted the principles that guide UNHCR's work with refugees in promoting livelihoods in the Southern African Development Community (SADC) and South Africa in particular. In promoting livelihoods, UNHCR principles are to complement the efforts of the individual, actions of the government and contribution of civil society is encouraged. UNHCR's role is of support within availability of resources. The UNHCR mandate enshrines the principle of durable solutions, local integration and resettlement as a subsidiary alternative and priority is given to the most vulnerable. The presentation highlighted that normally UNHCR assists refugees in camps providing health, shelter, education services unless the partners or governments can ensure it. Food assistance is granted until self-sufficiency can be attained, in most of the camps self sufficiency is almost impossible to reach. The presentation also highlighted the work that UNHCR does in countries like Malawi, Botswana and others in SADC.

Urban Settlements

Traditionally UNHCR did not assist refugees in urban areas because of the assumption that if refugees leave the camp they are able to care for themselves. In 2009 a policy for assisting urban refugees was proposed, built on the right of refugees to live in urban areas. South Africa was designated as a country for testing the new policy.

The situation in South Africa was that there was spontaneous local integration of refugees however this has had many challenges which include xenophobia, the economic crisis, unemployment of nationals, the documentation process and abuse of asylum system by migrants. Since South Africa has been designated as a testing station UNHCR is working through partners for:

- Legal support to access documentation
- Legal support in economic ventures
- Policy review with DHA for documentation that enables local integration
 - Effective and timely documentation of asylum seekers

- Longer duration of refugee documents
- Planned and well implemented move into permanent residence and naturalisation of those refugees legally enabled
- Addressing xenophobia with South African Police Service (SAPS) and Lawyers for Human Rights (LHR)
 - There is an Input Gathering team that includes SAPS and local people located in different areas across Gauteng gathering information on any threats to xenophobic violence.
- Review in-depth the possibilities of government, UNHCR, other UN and Civil Society to adopt a comprehensive plan for the vulnerable.
- Targeting refugees alone will not work, have to look at the whole population and all who are vulnerable

Discussion

The discussions on the UNHCR presentation focused on the economic projects that UNHCR presented as its plan for South Africa. The discussion highlighted that local municipalities are significant in the economic activities of migrants and refugees and would be a good entry point for the legislation that relates to refugees and migrants owning and running businesses. There was also a concern over the assumption that seemed to underline the UNHCR presentation that refugees and migrants wanted to start businesses yet there were surveys that had been conducted which showed that if refugees and migrants could get employment this would be their first choice. The presentation was also said to focus on big businesses and lack a focus on smaller business ventures. Issues of unemployment were highlighted that they impact on everyone in South Africa and therefore programmes cannot focus on just migrants and refugees. Also highlighted was the need to look at linking refugee and migrant programmes to what is happening in the country, because the more programmes that could integrate migrants/refugees and South African citizens would reduce xenophobia. It was noted that lack of employment has been a trigger for the xenophobic violence in many areas of the country. UNHCR reported that they have had preliminary discussions with the International Labour Organisation to get assistance in this regard and DSD at other levels has proposed ideas in this respect. There were also questions around the issue of UNCHR providing support in camps in the other countries in the region in relation to the urban policy in South Africa.

Promoting Livelihoods at JRS

Fr David Holdcroft

Jesuit Refugee Service (JRS)

The Jesuit Refugee Services is a faith based International organisation and has offices in Pretoria, Johannesburg and Makhado in South Africa. They are used to working in camp settings, where there is no need to assess status and refugees are isolated from the host population. They do not provide food and shelter. However, they highlighted that in an urban space there are more resources and more opportunities for collaboration with other stakeholders. The work of JRS in South Africa includes the identification of vulnerable groups, targeted skills training and job placement. They work in conjunction with RAO (Refugee Aid Organisation) to provide emergency assistance for three (3) months which at times is not sufficient time for the refugee to find alternative livelihood options. JRS offers small business grants giving preference to:

- Applications from groups willing to pool resources
- Evidence of applicant's self reliance strategies and initiatives
- Evidence of connection into the refugee community
- Market research and reasonable chance of success
- Initiatives to integrate into local community (readiness to employ South African nationals , learn language)
- Accountability to JRS for return of grant / further training for other refugees return of assets
- Contingency planning

In their work JRS reported that they have found projects that are combined performed fare better because when one is not bringing in money the other venture can sustain the business, for instance, having a salon and an internet café operating from the same premises. They also encourage refugee business owners to employ South Africans as an integration strategy. JRS highlighted in their presentation that it was important to have realistic expectations of the work they do in that not all refugee problems would be solved but it was a contribution they could make.

Discussions

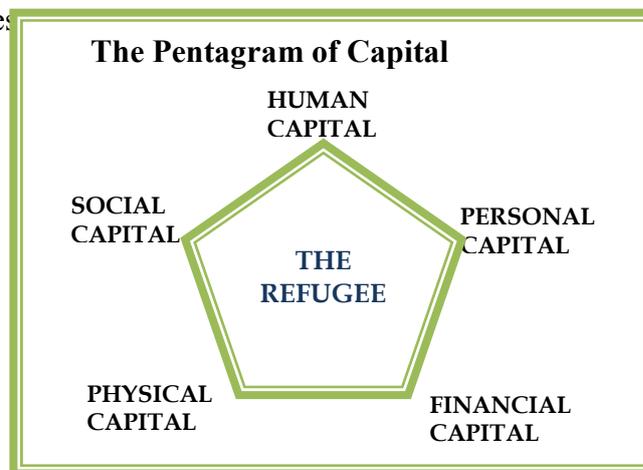
Discussions on the JRS presentation centred on the legislation requirements for running a business and if it posed any challenges to the project. One of the challenges they reported to have experienced is in relation to getting refugees to be part of cooperatives.

Skills Development & Sustainable Livelihood

Charles Mutabazi

ARESTA (Cape Town)

The ARESTA presentation highlighted the pentagram of capital framework they use in designing livelihood programmes



The above pentagram of capital that individuals hold is used by ARESTA to identify the needs of refugees and design programmes for implementation. Refugees and South Africans are found to be vulnerable in this pentagram of capital and thus requiring assistance. ARESTA implements the following programmes with people from the community, groups comprising both refugees and South Africans. They include: Counselling programmes, education, employment opportunity workshops and training, self-reliance and local integration programme, income generation and economic literacy, and support for small business development, such as beading workshop, sewing project and Information and Communication Technology training and computer repair.

Discussion

The discussions focused on the sustainability pentagram which brings a good framework to look at when designing programmes as it enables programmes to consider the resources that refugees and migrants bring with them onto programmes.

RECOMMENDATIONS

The meeting closed with a discussion outlining recommendations to be adopted for action.

1. The first recommendation is that programmes that support refugees and migrants to start up businesses should focus on groups of people including South Africans and not fund individuals.
2. A second recommendation is on non-national children and a motion was adopted to have a national multi-stakeholder working meeting to draw up concrete solutions considering refugee, migrant & undocumented children. In relation to this there would be a need for a focus on Zimbabwean children who need a special response.
3. A third recommendation is to approach and engage with the Social Cluster within government and make a presentation of the issues discussed at the seminar. This was said to be a more effective way of getting departments to be aware of these issues and getting involved in addressing them including the Department of Social Development as it would have participation from decision makers in the department.
4. The fourth recommendation is to include South Africans in programmes targeting refugees and migrants as well as looking at mainstreaming refugee issues into local programmes.
5. The final recommendation is to participate in the drafting of the Social Relief Bill, which will be tabled in Parliament this year by making submissions as this Bill aims to merge various funds among which is the Refugee Relief Fund which was created to benefit refugees in the country.