

## ERP BOOKLETS IN THIS SERIES

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2. **SEXUAL VIOLENCE: THE RIGHTS OF LEARNERS AND EDUCATORS**
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12. **EARLY CHILDHOOD DEVELOPMENT AND EDUCATION RIGHTS**
13. **THE RIGHT TO EDUCATION AND PROTECTION FROM DISCRIMINATION**

This booklet is dedicated to all those young people from other lands who seek refuge in our country, who request our understanding, comfort and sanctuary and who strive for dignity after years of humiliation. It is particularly dedicated to Felicity from the DRC (see page 3), the memory of Alice Chumba and Mcheangeni Mlambo from Zimbabwe (see page 7), Ziyaad from Palestine, Ahmed from Sudan (see page 2) and Pao from Burma.

It is also dedicated to the memory of Yaguine Koita and Fode Tounkara. Yaguine (15) and Fode (16) from Guinea were found dead in the landing gear of a plane in Brussels, Belgium in August, 1999. A note was found in one of their pockets. It read in part "...it is to your solidarity and generosity that we appeal for help... If you see that we have sacrificed ourselves and lost our lives, it is because we suffer too much... and need your help to struggle against poverty and war... Please excuse us very much for daring to write this letter".



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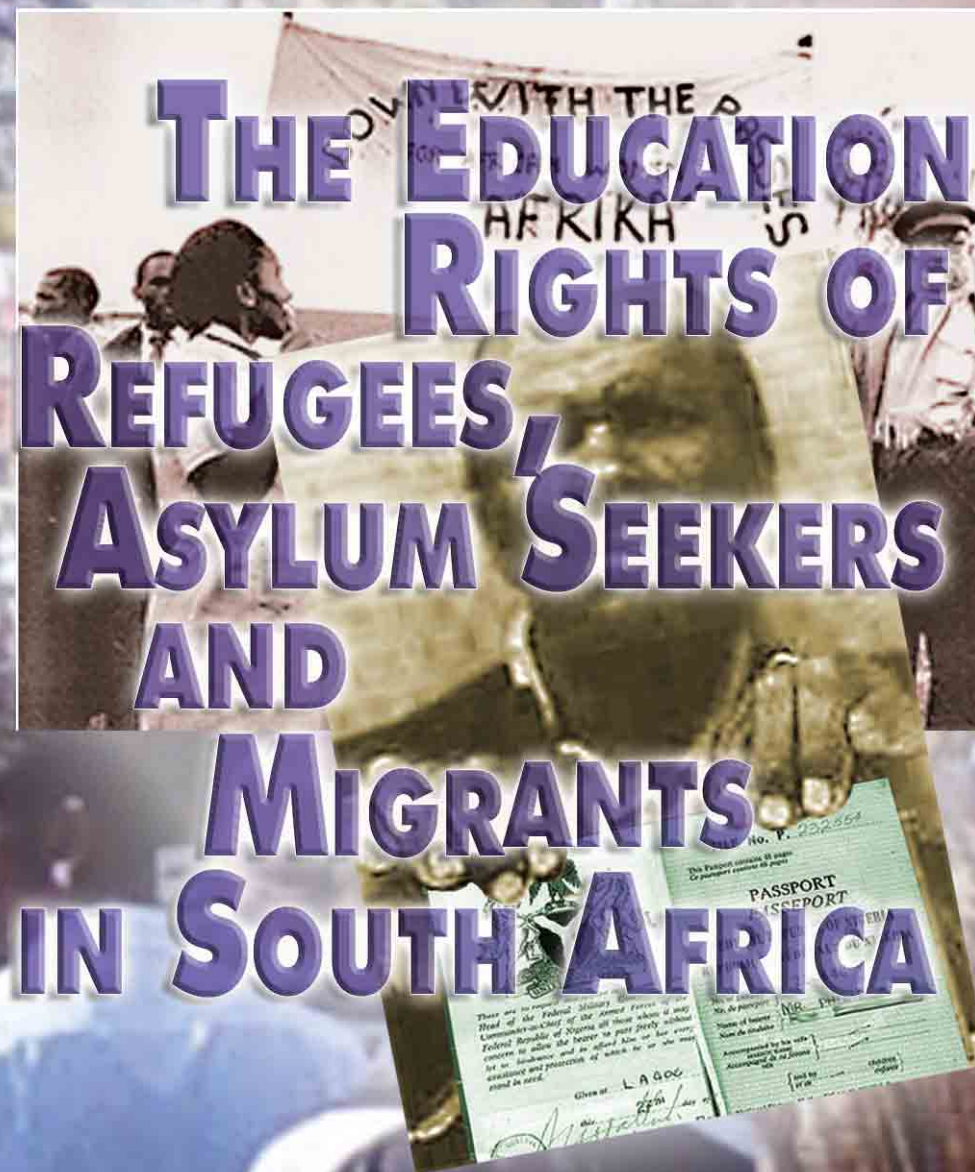
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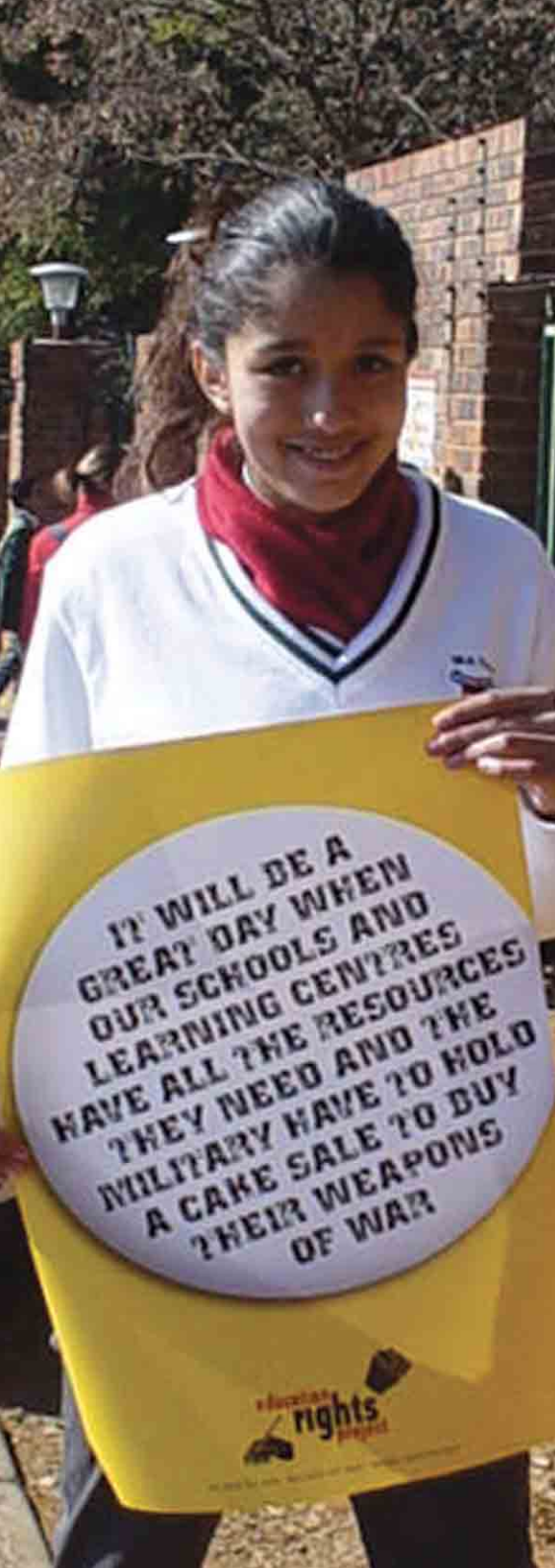
Education Policy Unit



Education Rights for  
Learners, Parents  
and Educators

book  
**3**





# The Education Rights of Refugees, Asylum Seekers and Migrants in South Africa

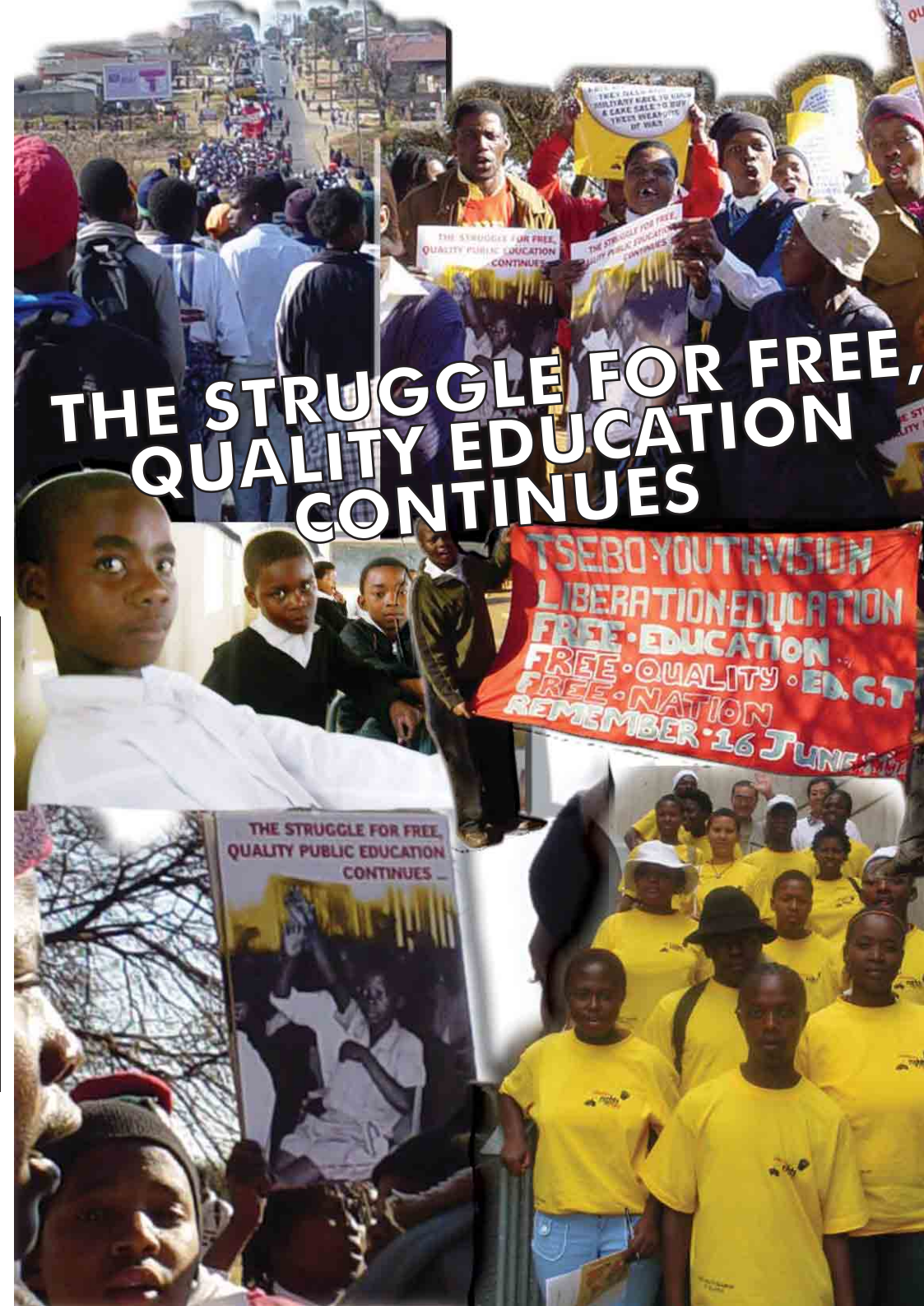
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We have attempted to ensure that the information in these booklets is accurate up to the time of publication-June 2005. Policies, laws and regulations change. Please contact the ERP for regular updates. All of these booklets are being translated into isiZulu, Sesotho and Afrikaans. The edition on migrant and refugee rights will be translated into French and Portuguese as well. Non-profit organisations are welcome to reproduce them. Suggestions for improvements are appreciated. Please acknowledge the Education Rights Project if you intend using this material.

Thanks to the Foundation for Human Rights, Save the Children Sweden, the Royal Netherlands Embassy and the Swedish International Development Agency for supporting this initiative.



## THE STRUGGLE FOR FREE, QUALITY EDUCATION CONTINUES

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## Acknowledgements

A number of people have contributed to this booklet. They include academics, activists, refugee parents, and non-governmental organisations. Members of community based refugee organisations such as the Coordinating Body for Refugee Communities, the Papillon Foundation and the Refugee Parents' Body provided valuable insights. We thank those that participated in our focus group meetings including representatives from the United Nations High Commissioner for Refugees (UNHCR), Lawyers for Human Rights (LHR), the National Consortium for Refugee Affairs (NCRA), and teachers' organisations. We also acknowledge the contribution of the Wits Forced Migration Working Group. Special thanks to Simon Kimani Ndungu, Roger Sibanyoni, Mondli Hlatshwayo from Khanya College, and Kaajal Ramjathan from the LHR.

## one INTRODUCTION

At different points in our history, South Africa became home to people from different countries. When the Dutch colonised the Cape in the 1600s they brought with them slaves from Malaysia, Indonesia, India and other countries. Many of these slaves were political prisoners who resisted Dutch colonial rule in their own countries. In the 1800s the British too brought labourers in near slave-like conditions from India to work in the sugar plantations of KwaZulu-Natal.

The growth of mining in South Africa in the late 1800s and 1900s also resulted in workers from all over the world coming to South Africa. Most of these miners came from countries in Southern Africa. They came from Mozambique, Malawi, Zambia, Lesotho and elsewhere.

Since 1994, South Africa has experienced another wave of newcomers – people fleeing wars and terrible hardships from countries such as the Democratic Republic of Congo (DRC), Burundi, Angola, Sudan, Zimbabwe, Somalia and Ethiopia. Like the migrants before them these people can make valuable contributions to our country.

All too often the suffering of many of these people before they came to South Africa and while they are here, is not always understood. Even worse, they are falsely blamed, harassed and attacked for the problems that exist in our country – problems such as unemployment and crime. It is wrong for some politicians and some of the media to blame foreigners for crime and unemployment in our country. Refugees and migrants are vulnerable and can easily be made into *scapegoats*.\* The causes of unemployment and its social consequences like crime lie largely in the economic choices our government has made and should not be blamed on migrants.

Provided they are not subjected to prejudice, *xenophobia* and isolation, newcomers usually add richness in terms of art, clothing, culture, food, literature and music to our country and our lives. Most of the recent arrivals create rather than take jobs from South

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\* Italicised words are explained in the word list at the end of this booklet.

## Education Rights Project

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Africans. Besides economic and other reasons to open our doors to those who come from elsewhere, there is a much more important reason: refugees, of whatever kind, present us with an opportunity to act with humanity and solidarity.

Most of the people who come to South Africa want their children to attend schools. Yet, communities and social movements have brought to the attention of the Education Rights Project, problems and questions refugees, asylum seekers and migrants have regarding their rights to education. The most common problems faced include issues of admission, school fees, documentation and age.

Studies\* have found that 30 percent of refugees in some of our cities are not able to send their children to primary school. Many parents and caregivers cannot afford the cost of education; their children are denied admission because some schools do not accept their documents and once learners are in school they often face different kinds of discriminatory practices. Here are the stories of two such learners:

### **Case Study: Ahmed, age 18, a refugee from Sudan**

When I arrived in South Africa from Sudan I was hopeful of finishing my education and contributing to this country until I could go back to my own country. What I have found is that being here is often harder than the journey to get here. There are so many obstacles, so many doors that close in your face when you are a refugee in South Africa.

Getting into school was my biggest problem. I look older than I am and my English is very good because I come from the south of Sudan where

English is widely spoken. I was refused entry in several schools here because the school authorities did not believe that I was only 17 years old. They accused me of having false papers, of being illegal, called me *kwerekwere*. They also assumed that if I was a refugee from another part of Africa, I should not speak such good English or be able to stand up for my rights.

I finally found a college in the centre of Pretoria that would accept me. Unfortunately, after seven months of study toward my matric, the college was shut down because it was unregistered. I lost out almost a whole

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\* A list of research projects referred to is found at the end of this booklet.

## The Education Rights of Refugees, Asylum Seekers and Migrants in South Africa

year of my education. Since then I have not gone back to school. I am trying to study on my own and I have started a theatre group that performs plays about refugee issues, like *xenophobia* and the problems we face getting an education.

Life is never easy. I am frustrated by the attitudes that many people have towards refugees. We are simply

people displaced by war or political upheaval. I do not come to steal jobs, rob you of your educational opportunities or to cause crime. I am a good citizen, with a good mind. I want to contribute positively while I am in South Africa and return to build a more democratic and humanitarian society in my own country. I wish more South Africans would see that.

*(Stone and Winterstein, 2003: 24)*

### **Case Study: Felicity, age 16, a refugee from the DRC**

I was brought here by my father and mother from the DRC. My father had to run away from our country because he was opposed to the government of Kabila. He was here for several months and then sent for us. I did not choose to come to this country and I prefer to be back home where I have friends and family.

I found a school in Pretoria that accepted me because they saw that I went to a private school in Kigali. Even though my English was very poor they accepted me. I worked very hard to improve my English and now I am doing much better at school. The principal was helpful and supportive but some of the teachers were very impatient with me. They would refuse to explain things slowly or they would explain the lessons in Zulu or Sotho. Then I was lost. Some

other teachers complained about the foreigners and how we are taking up space in their schools. They don't try to understand that many of us are refugees, that we have no choice but to be here.

School is fine and I have some friends. But I still feel very lonely in South Africa. There is no money at home to go out and socialise. I cannot go to movies with my friends from school because neither of my parents or my older brothers are working. We live in a very small place – seven people in a two bedroom flat. There is no privacy and we fight a lot. I struggle to concentrate on my school work and nobody in my family can help me because they do not speak English. I wish to go back to my country, to my old friends, to the school and the life that I know and loved. My parents say I must work hard to finish my education here.

*(Stone and Winterstein, 2003:6)*



### *Refugee*

As defined by the United Nations (UN), a refugee is a person who has fled from his/her country to seek asylum in another country with 'a well-founded fear of being persecuted for reasons related to 'race', tribe, nationality, religion and political opinion or membership of a particular social group'. The UN definition does not include economic and environmental refugees – those fleeing poverty, droughts, floods and other environmental disasters.

### *Asylum seeker*

A person who is in another country applying for asylum. If application is approved they gain refugee status.

### *Documented Migrant / Immigrant*

A person who has come to a foreign country but carries a temporary or permanent residence permit (section 1(1) of Immigration Act, 2002). Such a person can also be carrying a study permit or work permit that must be obtained in his or her country of origin.

### *Economic migrant*

A person who has come to a foreign country primarily for work.

### *Undocumented migrant*

Refers to a person who has entered a country without proper documentation. Some will be refugees, others undocumented workers or economic migrants.

**Note: Some migrants may fall into several of the above categories due to difficulties related to obtaining certain documents.**





## MYTHS AND FEARS ABOUT REFUGEES, ASYLUM SEEKERS AND MIGRANTS

There are many fears some South Africans have of refugees, asylum seekers, and migrants. Many of these fears and myths are not based on facts but are *generalisations*.

**Fear  
One**

“**Foreigners are flooding our country. They are taking jobs and resources.**”

Several studies have examined the economic impact of *immigration* on host countries. The picture they paint is hardly that of migrants as parasites. Migrants rarely use welfare services, they are mainly young and are highly motivated to work, create jobs for local people and bring new ideas about life, culture and art.

One study shows that 22 percent of migrants in South Africa had completed higher education or earned a post-graduate degree compared to 14 percent of South Africans. The skills migrants have can help ease our skills shortage in certain areas. Also migrants have been creating more jobs than South Africans. One survey found that 34 percent of migrants compared to 20% of South Africans paid someone to do work for them. More importantly, more than two-thirds (67%) of those hired by migrants were South Africans.

Compared to other countries and despite horrible wars and poverty in Africa, our intake of refugees is small. In 2002, Iran for example had 2.5 million refugees, Pakistan – 2 million, Jordan – 1.6 million, largely Palestinian refugees. The invasion of Afghanistan and Iraq has increased these numbers immensely.

### **African countries gave refuge to South African freedom fighters**

As South Africans we owe Mozambique, Zambia, Ghana, Zimbabwe, Angola and all other African countries a deep debt of gratitude. One of the first countries in Africa to accept South African refugees and exiles was Ghana. After independence Mozambique, Zambia,

Angola, Botswana and Lesotho allowed us to use their countries as a haven for South African refugees. I am deeply shamed by the events of a black man attacking another because he belongs to a different ethnic group or is a foreign resident living and working in South Africa.

*(MEC for Safety and Liaison,  
Maureen Modiselle, June 2004)*

## Education Rights Project

### Immigrants create jobs in South Africa

A detailed report by the Southern African Migration Project shows that immigrants, far from taking jobs from South Africans, are in fact creating job opportunities. According to the study, immigrant entrepreneurs employ at least one South African in their small business. Balla Papa Sissoko, a Malian who came to South Africa after the 1994 election, owns a panelbeating garage in Berea, Johannesburg, and employs five

South Africans...The 26-year-old Sissoko says "I do not only employ them but also I give them experience..."

Parks Sikhakhane from KwaZulu-Natal says, "When he employed me I had been looking for a job for more than 11 years. I don't think much about what I earn, but I am grateful because he teaches us a lot of things and we will use that experience in the future."

*(Sunday Independent, 17/08/97)*

**Fear** **Two** **“Much of the crime in our country is caused by these foreigners.”**

Those who have committed serious crimes such as war crimes, child and women trafficking and members of drug gangs should not be allowed into our country. It cannot be denied that some of the people that come to our country are involved in illegal activities. Often this is because there are many restrictions placed on migrants to pursue legal livelihoods – prohibitions on work, lack of identity documents or papers showing professional qualifications, discriminatory hiring practices, not being able to open bank accounts and paying much more for accommodation than South Africans.

The fact is that migrants are more likely to be victims of crime than South Africans. One survey found that despite being in the country for a short period, 72 percent of migrants surveyed reported that they or someone they lived with had been a victim of crime, compared with 43 percent of South Africans.

When asked if police had ever stopped them, 71 percent of migrants said yes compared with fewer than 30 percent of South Africans. Most of the time, very similar to the pass raids under apartheid, police stop people to check documents. There are cases where South Africans too are stopped and taken to the *Lindela Detention Centre* because some of the police said, "They looked too dark to be South African!" Many migrants report that the police take their papers and they are forced to pay bribes. The head of Hillbrow Police Station reported that Johannesburg's

foreigners are overwhelmingly the victims, rather than the perpetrators of crime.

It appears that refugees and migrants are being criminalised by our justice system. The 1998 Refugees Act (discussed later in this booklet) expresses strong commitment to refugee protection and rights but refugees continue to suffer discrimination, police harassment and anti-foreigner violence. For example, many asylum seekers complain that the Department of Home Affairs takes at least 18 months and sometimes as long as four years to process an asylum request rather than the six months period stated in the Refugee Act.

Many foreigners complain that they have to bribe officials or even private security guards just to enter *Refugee Reception Offices*. In this time of waiting, asylum seekers often have no documents, can't work and have no financial support.

According to reports foreigners are jailed under terrible conditions at the *Lindela 'detention centre'*. Some reports even suggest that foreigners are kept illegally in this camp. The Education Rights Project has received complaints which describe cases where young learners, despite their legal status, were arrested and kept at Lindela.

**Deaths at Lindela, South Africa's  
detention and deportation camp**

...Alice Chumba (18) and Mcheangeni Mlambo (22) died in Lindela detention camp in the week of the 10th of July 2005. ...Lawyers for Human Rights (LHR) have condemned the lack of medical facilities available at Lindela and said that despite frequent complaints to the authorities nothing had been done to upgrade the clinic, "which is equipped to give little more than Panado", Kaajal Ramjathan-Keogh of LHR in Johannesburg said. Papele Shabane of Busasa, the private company that has a contract with the Department of Home Affairs to manage Lindela, said the woman, Alice Chumba was admitted to

Lindela on June 30, "and on July 4 the security people in the ladies section became alarmed by her vomiting, she was taken to the clinic who sent her to Leratong hospital, but she died later that day..."

Joyce Dube of the Southern African Women's Institute for Migration Affairs, which assists refugees, has called for an official enquiry into the deaths. She said her organisation was planning a march on Lindela. "We marched on Lindela last year, and asked for improvements and nothing has happened... Everyone who comes out of Lindela is sick, I think there is a problem with the food in Lindela."

*(Sunday Independent, 17/07/05)*

## Education Rights Project

### The Facts Are

- Most immigrants enter the country at official immigration posts.
- Most foreigners come into the country for short visits to shop, to visit families, or friends, or are on holiday.
- Most people who migrate are often those with initiative, skills, and other resources. Many are open to new cultures and experiences.

### African Solidarity Against Apartheid

‘Most of us are aware that during apartheid many South Africans, like myself, sought refuge in countries all over the continent and further a field. Everyone was entitled to an

education, and most of us took advantage of it because we knew that one day we would be needed to rebuild our country. That is what the refugee of today also wants to do.’

*(ex-Minister of Education, Kader Asmal, World Refugee Day, 2003)*

rights  
three

## ADMISSION

Can Refugees be Refused Admission  
to a Public School or a Public Adult  
Learning Centre?

# No.

### The South African Constitution says:

- Everyone has the right to basic education including adult basic education.

*(Section 29 of the  
Bill of Rights)*

### The Refugee Act of 1998 says that:

- Refugees and their children are entitled to the same basic health service and basic primary education, which citizens of the Republic receive from time to time.

*(Refugee Act No 30 of 1998,  
Admission of Learners to Public  
Schools of 2001)*



# The Education Rights of Refugees, Asylum Seekers and Migrants in South Africa

## Asylum Seekers are Allowed to Look for Work in South Africa

Before 2002, asylum seekers were not allowed to work and study in South Africa. The South African Human Rights Commission questioned the constitutionality of the prohibition on asylum seekers to seek work while waiting for refugee status recognition.

The prohibition was finally lifted in the case of *Watchenuka and Another v Minister of Home Affairs and Two Others*.

The Legal Resources Centre in Cape Town successfully challenged the law preventing asylum seekers from studying or looking for work in South Africa.

The decision of the constitutional court was that from 12th December 2002, the Department of Home Affairs should no longer prohibit or prevent asylum seekers from studying or working in South Africa.

The following conventions also bind the South African government to provide education for refugees, asylum seekers and migrants:

**The International Convention on the Rights of the Child (ICRC) 1989, article 28(1) says:**

**The 1951 Geneva Convention and the 1967 Protocol Relating to the Status of Refugees Article 22 (1) of the convention says:**

State parties shall make primary education compulsory, available free for all.

Contracting States shall accord refugees treatment as is accorded to nationals with respect to elementary education.

# 4

## REQUIREMENTS FOR REGISTRATION

What is needed to register in a school?

### According to Section 15 to 18 of the National Education Policy Act 27 of 1996:

- You need to receive and complete an application form.
- You need to present a South African birth certificate or a Refugee ID Card, or Asylum Permit or Letter of Recognition (list at the end of this Booklet provides details of government offices and Refugee Reception Offices where these documents can be obtained).
- Proof of immunisation. The learner can be immunised for free in a public hospital against polio, measles, tuberculosis, diphtheria, tetanus, and hepatitis B.
- A transfer card or equivalent document from the last school the learner attended.

NOTE: Payment of school fees, registration fees, deposits on school fees, taking of aptitude tests and uniforms are not conditions for registration to a South African Public School.

#### Case Study: Assunami, a refugee from the DRC

In December 2001 conflict erupted in the South Kivu Province of Democratic Republic of Congo (DRC) where Assunami (an unaccompanied minor) used to live. He was at school when the fighting started, 15 kilometres away from his home.

The principal of the school told the students to leave and return home to their families. Assunami and his

classmates tried to find transport to go home but there was none available as everyone in the area was fleeing.

He walked all the way only to find the house locked up. Like everyone else, he decided to run into the bush. After three months of flight he arrived in South Africa in February 2002. Assunami has not been able to locate his family since he left DRC; he has no information on their whereabouts.

*(UNHCR, 2003)*

In the definition of a refugee it says that these are persons fleeing different types of violence. Quite often refugees escape as their homes are burnt down and schools destroyed. Often what they are left with are just clothes on their bodies and they have no time to collect school report cards and transfer forms. Sometimes families lose each other in the midst of conflict.

**Can the school refuse to admit refugees and migrants if they do not have some or all the documents required?**

**No.**

**Section 5 of the Admission of Learners to Public Schools (General Notice 4138 of 2001) says:**

Where the needed documentation is not available, the principal must help the parent to obtain necessary documentation. The child must be admitted to the school conditionally while the parent obtains the needed documentation. When the required documentation is not available within three months of the child having been conditionally admitted to the school, the School Governing Body in consultation with the District Officials must attend to the matter by liaising with the relevant authorities and parents.

**Immigrants write matric too**

A case study on social integration of former refugees in Ekulindeni Village, in Mpumalanga province, showed that problems with documents are particularly common towards completion of secondary schooling. This is when learners are required to write their matriculation examinations.

In this particular case the Manager of the Mashishini Education Circuit led a process of establishing formal lines of co-operation between the Department of Education and Home Affairs, with the result that immigrants sitting for matriculation examinations are receiving the appropriate documentation more rapidly.

### What if people are classified as 'illegal aliens' or undocumented migrants?

#### **According to Section 21 of the National Education Policy Act of 1996:**

- A child of a person that does not have legal status may still have to be admitted to a public school as long as the caregiver or parent can provide proof that an application has been made to stay legally in South Africa.

#### **Also Section 6 of the Admission of Learners to Public Schools on admission of non-citizens says:**

- The legal and policy framework relevant to learners who are citizens of the Republic of South Africa apply equally to learners who are not citizens of the Republic and whose parents are in possession of a permit for temporary or permanent residence issued by the Department of Home Affairs.
- A learner who has entered the country on a study permit must present the study permit on admission to the public school.
- Persons classified as 'illegal aliens' or undocumented migrants must, when applying for admission for their children or themselves, prove that they have applied to the Department of Home Affairs to legalise their stay in the country.
- When the required documentation is not available, the principal must help the parents to obtain the necessary documentation. In such cases, the child must be admitted to the school while the parent obtains the required document.

#### **'Legal' immigrants have the same rights as South African citizens**

Discussions between the South African Human Rights Commission and the Minister resulted in a document stating that all foreign nationals (be they refugees or asylum seekers) with the appropriate legal status must be treated on the same basis as South African citizens, enjoying all the rights and privileges that the Constitution and the South

African Schools Act provides to learners.

In the case where applicants do not have the necessary residence status, school principals are obliged to admit them to the school, but are also expected, by the law to report such cases to the relevant authorities, namely the Department of Home Affairs.

*(Stone and Winterstein, 2003)*



**What if refugees and migrants  
do not have a school uniform?**

In South Africa there is no law that says children who cannot afford to buy school uniforms required by schools cannot go to school. It is against the law to prevent refugee children from going to school because they do not have a school uniform. Organisations such as the Jesuit Refugee Service provide limited assistance to purchase uniforms and pay school fees. (see list at the end of Booklet).

**five** SCHOOL FEES

**What if learners or their caregivers  
cannot afford to pay school fees?**

Some refugee children have been denied re-admission in schools because they cannot afford school fees or owe fees from previous year/s of schooling. Some schools are not informing refugees about their right not to pay school fees when they cannot afford to do so.

**Over a quarter of children of  
immigrants refused admission to  
school**

According to a 2003 research report by the Community Agency for Social Enquiry, 26% of children of immigrants at primary level and 39% at secondary level are not at

school because they cannot afford to pay school fees. This is because many immigrants, like South Africans, have not been informed about what the law says and schools often ignore the law in order to collect as many school fees as possible.

**Section 10 of the National Education Policy Act of 1996 says that:**

No learner may be suspended from classes, denied participation in sporting or cultural activities, denied a school report or transfer card or victimised because his or her parent has not or cannot pay school fees.

## Education Rights Project

### The South African Schools Act of 1996 says:

- All parents or caregivers who cannot afford to pay school fees should be exempted from doing so.
- The principal and the School Governing Body must inform all parents about their right to apply for school fees exemption.
- The principal has the responsibility to assist parents or caregivers to apply for school fees exemption.

### Refugees demand their right to education and services

The Education Rights Project, the Coordinating Body for Refugee Communities and other refugee organisations have seen many threatening letters from debt collectors written to refugees who had not paid school fees. This situation traumatises both parents and children. Quite often both parents and learners live in fear of legal action, being denied schooling

or even being deported. Children are often harassed in classes about the fees their parents owe. In November 2004, refugee women and children marched to demand negotiations with city officials in Durban about free access to basic health care, basic education and adult education for refugee parents.

*(Report on refugees' access to HIV-related health service in Durban, <http://www.ukzn.ac.za/ccs>)*

### Are asylum seekers, refugees and migrants' children allowed to receive Anti-Retroviral (ARVs) Drugs?

In South Africa, asylum seekers, migrants and refugees children have a right to go to clinics, hospitals and access medical care including ARVs. Once an asylum seeker status is given refugees in South Africa have the right to seek treatment from the country's healthcare system. Those granted asylum are issued with identification cards to be shown at the hospitals where they go for care (*Inter Press Service – February 10, 2005*) (See ERP HIV/AIDS booklet for details).

### Section 28 (1) c. of the constitution says:

- Every child has the right to basic nutrition, shelter, basic health care services and social services.

The Refugee Act of 1998 also says that refugees and their children have the right to the same basic health service as South Africans.

## 6 AGE

Some refugee learners spent years in their countries without schooling. Armed gangs abducted some and others were forced to become child soldiers. In South Africa, 'normal grade age' means the grade number plus 6. For example, Grade 1 + 6 = age 7 or Grade 9 + 6 = age 15.

### What if a learner is older than 15 years?

#### Section 10 (1) of the Admission of Learners to Public Schools says:

- a district senior manager must establish fast track programmes in his/her district to accommodate learners who –
  - a) Have been out of school for such periods as are likely to have impaired their learning opportunities;
  - b) Have had no schooling; or
  - c) Are three years or more above the age-norm grade.

Learners who are above the normal grade age are often referred to a Public Adult Learning Centre (see ERP ABET booklet).

#### **The case of *SOMAFCO*, [a school for South African exiles in Tanzania]**

At SOMAFCO, students were as old as 32. Some were MK cadres who were returning to school, or students who had been detained in South Africa and upon release had gone into exile to continue their education.

*(Morrow et al, 2004: 63)*

A feeder zone is an area that 'feeds' or provides schools with their learners. Learners in this area are given priority in terms of admission to the schools in the feeder zone. The Head of Department establishes feeder zones for schools after consulting with representatives of school governing bodies.

#### What if a school is said to be full?

#### **Section 34 of the South African Schools Acts says:**

- Children who live or whose parents work within the designated feeder zone of a school are given first priority to register in a school.

Reports from refugee community-based organisations show that some refugee children have been on waiting lists for more than a year. This is because schools say they are full. This is unlawful (see ERP booklet on Admission Policy).

#### **The Admission Policy for Ordinary Public Schools says:**

- A learner who lives within the feeder zone of a school A must be referred to the neighbouring school B, if school A is full. If school B is full, the Head of Department must find an alternative school within a reasonable distance. If that is not possible, school A must admit the learner.



# 8

## LANGUAGE ISSUES

- Most refugees in South Africa are from countries where Arabic, French, Lingala, Swahili and Portuguese are the main languages. Most refugees wish to return back home once political and economic conditions are suitable. Some schools have denied refugee children admission because they cannot speak English. This is wrong.
- Those who are admitted, often pay extra fees for receiving lessons in languages of their choice such as French. This is an additional financial burden above costs such as uniforms, transport, accommodation and food. Learning the language of their country of origin is important for many refugee children because this will make it possible for them to return home to help with the rebuilding of their countries. Think of the problems children of South African exiles, who cannot speak their mother tongue face when they returned to our country.

### **Section C of the Norms and Standards for Language in Public Schools in part aims to:**

- Support the learning and teaching of all other languages required by learners, used by communities in South Africa, including languages which are important for international trade and communication.

### **Section D of the Norms and Standards for Language in Public Schools says:**

- Languages other than the official languages can be offered as school subjects.

# nine UNACCOMPANIED MINORS/CHILDREN

Unaccompanied minors are also known as separated minors. These are children who have been separated from their families and who often do not know the whereabouts of their immediate family members. They are more vulnerable than any refugee child with parents or a caregiver. Their situation in host countries is characterized by rejection, lack of protection, loneliness and far less opportunities for accessing their rights. In South Africa, unaccompanied foreign children are meant to be protected by the Constitution, the Child Care Act, the Convention on the Rights of the Child and the Refugee Act.

### **Refugees march to demand protection for unaccompanied minors**

In March 2001 a demonstration was held and a petition handed to the Refugee Reception Office in Johannesburg wherein the protesters demanded greater protection for unaccompanied minors.

*(March 2 2001, Sapa)*

### **Judge condemns government officials for refusing protection to refugee children**

On the 8<sup>th</sup> of September 2004 the Centre for Child Law and Lawyers for Human Rights in Pretoria, made an urgent and successful application to the Pretoria High Court after social welfare officials refused to protect twelve unaccompanied minors. The Krugersdorp Commissioner of Child Welfare had refused to conduct an enquiry in respect of the twelve unaccompanied children because in his view foreign children fell outside the Child Care Act.

In a precedent-setting judgment, Judge Annemarie de Vos condemned the government officials for failing to act in accordance with South Africa's Constitution, statutory law and their own stated policy as well as international law. The importance of the judgement is that it removes any doubt that may have existed about the fact that unaccompanied foreign children fall under the provisions of the Child Care Act.

*(Lawyers for Human Rights 13 September, 2004)*

## 0110 WHERE TO GO FOR HELP?

Call the Department of Home Affairs Regional Offices and ask for an office near your area.

Eastern Cape	(043) 643 4689/99
Free State	(051) 430 3664/6/7
Gauteng East	(012) 324 1860
Gauteng West	(011) 467 2382
Hotline (admissions, temporary residence, permanent residence, aliens control)	(011) 975 0735/65 (011) 324 1860 (011) 811 3475 (011) 975 0735/65
KwaZulu-Natal	(031) 564 6411
Mpumalanga	(013) 752 8164
Northern Cape	(053) 839 5402
Limpopo Province	(015) 295 5220
North West	(018) 384 5443-8
Western Cape	(021) 462 4970

### **If someone you know has been arrested, contact the Lindela Detention Centre:**

Lindela Detention Centre  
Main Hostel, Westrand Conf.  
Krugersdorp, 1739  
Tel: (011) 660 8766  
Fax: (011) 660 2556

Lindela holds those considered to be illegal immigrants before their deportation. It is managed by a private company called Busasa under the supervision of the Department of Home Affairs.

## Education Rights Project

### Refugee Reception Offices

Cape Town	The Department of Home Affairs Refugee Reception Office 5 <sup>th</sup> Floor, Customs House Building Foreshore Private Bag X 9031 Cape Town Tel: (021) 421 1006
Durban	The Department of Home Affairs Refugee Reception Office 350 Emngeni Road Private Bag X 09 Greyville, Durban 4023 Tel: (031) 308 7955
Johannesburg	Department of Home Affairs Refugee Reception Office[as we go to press this office in Rosettenville has been closed temporarily]
Port Elizabeth	The Department of Home Affairs Refugee Reception Office Cnr Stone and Laurina Streets P O Box 6030 Port Elizabeth Tel: (041) 487 1026
Pretoria	Department of Home Affairs Refugee Reception Office Cnr. DF. Malan and Struben Streets Marabastad, Pretoria West Tel: 012 327 3500 Fax: 012 327 0086

You can also contact the Department of Education's toll-free line at 0800 005 175/0800 202 933 for admission and school fees issues.



**USEFUL ORGANISATIONS THAT PROVIDE  
HELP**

Organisation	Services rendered	Contact details
<p><b>Agency for Refugee Education, Skills Training and Advocacy (ARESTA)</b></p>	<p>ARESTA provides education, skills and advocates on behalf of refugees.</p>	<p>C/o CRIC Cnr Springbok &amp; Klipfontein Road, Athlone, 7764 Tel: (021) 637 8040, Fax (021) 633 9022 Email: <a href="mailto:aresta@kingsley.co.za">aresta@kingsley.co.za</a></p>
<p><b>Black Sash (National Office)</b></p>	<p>Offers legal advice to refugees and asylum seekers on issues related to human rights.</p>	<p>12 Plein Street 4<sup>th</sup> Floor Cape Town 8001 Tel: (021) 461 7808 Fax: (021) 461 8004 Email: <a href="mailto:info@blacksash.org.za">info@blacksash.org.za</a> Website: <a href="http://www.blacksash.org.za">www.blacksash.org.za</a></p>
<p><b>Campus Law Clinic</b></p>	<p>Provides free advice and assistance with asylum application procedures, appeals, unlawful detention, <i>repatriation</i>, socio-economic rights and other <i>durable solutions</i>.</p>	<p><b>Durban</b> (031) 260 2446 <b>Pietermaritzburg</b> (033) 260 5976 <b>Polokwane</b> (015) 291 5309</p>
<p><b>Independent Complaints Directorate</b></p>	<p>If your rights have been violated by the police.</p>	<p>Tel: (012) 339 1554</p>

## Education Rights Project

<p><b>South African Human Rights Commission</b></p>	<p>An organisation set up in terms of the constitution. It monitors human rights issues in our country and assists in the protection of those whose human rights have been violated.</p>	<p><b>Eastern Cape</b> Tel: (021) 582 4094/2611/4302 <b>Free State</b> Tel: (051) 447 1130/3 <b>Johannesburg</b> (Head Office) Tel: (011) 484 8300 <b>KwaZulu-Natal</b> Tel: (031) 304 7323/4/5 <b>Limpopo</b> Tel: (051) 291 3500/4 <b>Mpumalanga</b> Tel: (013) 752 5870/8292/5890 <b>Northern Cape</b> Tel: (054) 332 3993/4/5293 <b>Western Cape</b> Tel: (021) 426 2277</p>
<p><b>Jesuit Refugee Service (JRS)</b></p>	<p>An implementing partner for the United Nations High Commissioner for Refugees. It assists refugees, asylum seekers and unaccompanied minors with accommodation, education, skills training, social counselling and medical assistance.</p>	<p>84 Fredrick Street 5<sup>th</sup> Floor Omnia Centre Marshalltown Johannesburg  Tel: (011) 331 0037 Fax: (011) 331 0038</p>
<p><b>Johannesburg Refugee Network (JRN)</b></p>	<p>A network of a number of community based refugee organisations and South African NGO's working with refugees in the Johannesburg area.</p>	<p>P.O. Box 2827 Johannesburg 2000  Tel: (011) 834 8361/5 Fax: (011) 492 1177 Email: <a href="mailto:sashtraining@blacksash.org.za">sashtraining@blacksash.org.za</a></p>

# The Education Rights of Refugees, Asylum Seekers and Migrants in South Africa

<p><b>Legal Resources Centre (LRC)</b></p>	<p>Public interest law centre and general legal advice.</p>	<p>National Office 41 De Korte St. 7<sup>th</sup> Floor, Sable Centre Braamfontein, 2001 P O Box 157 Wits, 2050</p> <p>Tel: (011) 403 7694/0902 Fax: (011) 403 1058 Email: <a href="mailto:contact@lrc.org.za">contact@lrc.org.za</a>, Website: <a href="http://www.lrc.org.za">www.lrc.org.za</a></p>
<p><b>Public Protector</b></p>	<p>To complain about unfair treatment by a government official.</p>	<p>Tel: 012 322 2916</p>
<p><b>Refugee Rights Project</b></p>	<p>A project of the Lawyers for Human Rights to promote, advocate and protect the human rights of undocumented migrants, asylum seekers and refugees in South Africa. The Lawyers for Human Rights have offices nation wide as listed below. They provide advice and assistance in a number of areas such as asylum application procedures, appeals, reviews in cases of rejected asylum application, socio-economic rights, monitoring unlawful detention and repatriation.</p>	<p>1. 20 St Andrews St. Room 31, Diakonia Centre Durban, 4001</p> <p>Tel: (031) 301 0531/7572 Fax: (031) 301 0538/2823 Email: <a href="mailto:maatla@lhr.org.za">maatla@lhr.org.za</a> or <a href="mailto:taryn@lhr.org.za">taryn@lhr.org.za</a> Website: <a href="http://www.lhr.org.za">www.lhr.org.za</a></p> <p>2. Cnr. Perkins &amp; Green St. Room 10, Agency House North End, Port Elizabeth</p> <p>Tel: (041) 487 0881/2 Fax: (041) 487 0885 Email: <a href="mailto:lhrpe@lhr.org.za">lhrpe@lhr.org.za</a>, Website: <a href="http://www.lhr.org.za">www.lhr.org.za</a></p> <p>3. Kutlwanong Democracy Centre 357 Visagie St. Pretoria</p> <p>Tel: (012) 320 2942 Fax: (012) 320 2949 Email: <a href="mailto:lhr@lhr.org.za">lhr@lhr.org.za</a> Website: <a href="http://www.lhr.org.za">www.lhr.org.za</a></p> <p>4. 185 Smith St. 3<sup>rd</sup> Floor, Auckland Hse (Cnr. Biccard Street) Braamfontein, JHB</p> <p>Tel: (011) 339 1960/2 Email: <a href="mailto:kaajal@lhr.org.za">kaajal@lhr.org.za</a> or <a href="mailto:emmaj@lhr.org.za">emmaj@lhr.org.za</a>, Website: <a href="http://www.lhr.org.za">www.lhr.org.za</a></p>

## Education Rights Project

<p><b>West Coast Clinic</b></p>	<p>Provides free advice and assistance with asylum application procedures, appeals, unlawful detention, <i>repatriation</i>, socio-economic rights and other <i>durable solutions</i>.</p>	<p>Akasia Avenue Westbank Malmesbury 7299 Western Cape</p> <p>Tel: (022) 486 4221 Fax: (022) 486 4162 Email: <a href="mailto:rights@xsinet.co.za">rights@xsinet.co.za</a></p>
<p><b>Wits University Law Clinic</b></p>	<p>Provides free advice and assistance with asylum application procedures, appeals, unlawful detention, <i>repatriation</i>, socio-economic rights and other <i>durable solutions</i>.</p>	<p>Empire Road West Campus Oliver Schreiner School of Law Room 132 Braamfontein, Johannesburg</p> <p>Tel: (011) 717 8562</p>
<p><b>United Nations High Commissioner for Refugees (UNHCR)</b></p>	<p>An international refugee agency that helps displaced people during situations of emergency to provide basic necessities.</p>	<p>351 Schoeman Street Pretoria, 0001</p> <p>Tel: (012) 354 8300/8303 Fax: 012 322 0216</p>

# 121 WORD LIST

**Durable solution** refers to three strategies used by UNHCR in dealing with refugees namely local integration, resettlement in a third country and voluntary repatriation (going back to the country of origin).

**Generalisations** are statements that attempt to apply to every member of a particular group. Not all generalisations are true statements.

**Immigration** refers to a process of entering and settling in a country one is not born in.

**Kwerekwere** is a derogatory term used to refer to foreign nationals, almost always used on those from other African countries.

**Lindela Detention Centre** holds those considered to be illegal immigrants before their deportation.

**Refugee Reception Office (RRO)** is a place where refugees should report and apply for asylum within 14 days of arrival in South Africa. RROs are located in five cities, namely, Cape Town, Durban, Johannesburg, Port Elizabeth and Pretoria.

**Section 22 permit** is a document that is issued according to Section 22 of the 1998 Refugee Act to prove that a person has presented himself or herself in the Refugee Reception Office to apply for asylum.

**Scapegoat** refers to a situation where one is made to bear the blame of others.

**Unaccompanied minors** are foreign children who because of conditions of wars, poverty, and persecution have been separated from their parents or next of kin and are not cared for by an adult who by law or custom is responsible to do so.

**Voluntary repatriation** is one of the durable solutions promoted by UNHCR. It means to restore or return to the country of birth or citizenship. Returning to home countries should be a choice made by a refugee usually on the basis of the fact that it is safe to do so.

**Xenophobia** is the dislike of people from other countries based on myths and stereotypes.

# thirteen

## USEFUL DOCUMENTS

African Charter on Human and Peoples' Rights.  
[www.achpr.org](http://www.achpr.org)

Belvedere, F. (ed) *National Refugee Baseline Survey: Final Report*.  
November 2003. Pretoria, Capture Press.

Immigration Act, No. 13 of 2002.  
<http://www.acts.co.za>

International Convention on the Rights of the Child 1989.  
[www.unicef.org/crc](http://www.unicef.org/crc)

Landau, B. L & Jacobsen, K. (2004) *Refugees in the New Johannesburg*, *Forced Migration Review*. pp44-46, Issue No. 19.

Morrow, S. Maaba, B. & Pulumani, L. (2004) *Education in Exile: SOMAFCO, the African National Congress School in Tanzania, 1978 to 1992*. Cape Town: HSRC Press.

*New Internationalist Magazine* on Refugees.  
<http://www.newint.org>

Refugee Act No. 30 of 1998.  
<http://www.dha.gov.za>

Stone, L. & Winterstein S. (2003) *A Right or a Privilege? Access to Basic Education for Refugee and Asylum-Seeker Children in South Africa*. Research Report. National Consortium for Refugee Affairs.