

FORMATION AND TRAINING MANUAL



Pastoral Care for Migrants and Refugees

FORMATION AND TRAINING MANUAL

Pastoral Care for Migrants and Refugees



Southern African Catholic Bishops' Conference

The SACBC Office of Pastoral Care for Migrants and Refugees felt the need to organize a Manual for Formation and Training of Pastoral Care for Migrants and Refugees as a guideline for Dioceses, and Parishes of Southern Africa. The aim is to equip staff and volunteers on how to respond to the needs of Migration in Southern Africa. A special thanks to the authors for their contributions and reflections, that enabled the publication of the first Manual on Migration by SACBC Office for Migrants and Refugees.

Published by the Southern African Catholic Bishops' Conference
SACBC Migrants and Refugees Office

Cover design: https://www.nationsonline.org/oneworld/map/world_map.htm

Sponsored by:



Printed and bound by: Reprocentre
richard@reprocentre.co.za

For more information:

SACBC – Southern African Catholic Bishops' Conference
Migrants and Refugees Office
Khanya House, 129 Main Street
Waterkloof
0181 Pretoria
Tel: +27 (0) 12 323 6458
www.sacbc.org.za

Table of Contents

***Foreword* 7**

***Introduction* 8**

Acronyms..... 9

Chapter 1 International Migration in South(ern) Africa.....11

***Chapter 2 The Church’s Responses to Migration:
from Pope Leo XIII to Pope Francis.....80***

Chapter 3 The Virtue of Hospitality in the Biblical Tradition89

Chapter 4 Social Teaching of the Church and Migration99

Chapter 5 Advocacy and Networking on Migration108

Chapter 6 Counter Trafficking in Persons Office, LCCL/SACBC.....118

Chapter 7 Pastoral Planning in the Migration Ministry125

Conclusion.....133

Appendix.....135

ABOUT THE AUTHORS



Att. Sally Gandar

Sally Gandar, an attorney by profession, is the Head of Advocacy & Legal Advisor at the Scalabrini Centre of Cape Town. The Scalabrini Centre is an NGO in Cape Town that assists the refugee and migrant community. In addition to this role, Sally is also the Chairperson of the Hate Crimes Working Group and sits on the South African Human Rights Commission's section 11 committee of migration experts. Sally is passionate about advocacy, particularly in respect of migration, asylum seekers and refugees.



Fr. Avelino Chico, SJ

Fr. Avelino Chico, SJ is a Jesuit from Angola. He joined the Order in 2002 and was ordained to the priesthood in 2014. He holds a PhD in International Migration and Development Cooperation from the Pontifical University of Comillas in Madrid, Spain. He taught at the Catholic University of Angola and the Instituto Superior de Ciências Sociais e Relações Internacionais (CIS). Since 2020 is working at the Migrants & Refugees Section (Dicastery of Integral Human Development – Vatican). He is part of the Coordination team for Africa.



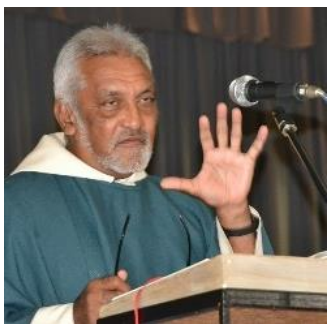
*Archbishop Buti Tlhagale,
O.M.I.*

His Grace Archbishop Buti Tlhagale, O.M.I. is the Archbishop of the Catholic Archdiocese of Johannesburg. In 2016, he was appointed as the Southern African Catholic Bishops' Conference's Liaison Bishop for Migrants and Refugees. He is a member of the UNHCR Multi-Religious Council of Leaders and a supporter of the UNHCR #IBelong Campaign. For many years he was the President of SACBC. His Grace strongly advocated against the Apartheid and the exclusion of the poor and vulnerable people in the Country.



Fr Rampe Hlobo SJ

Fr. Rampe Hlobo SJ is a Jesuit priest based in Johannesburg. His Pastoral experience includes working as an assistant pastor and chaplain at Holy Trinity Catholic Church in Braamfontein, as well as the Wits and University of Johannesburg Catholic chaplaincies. He spent over four years as the parochial administrator of St Mary's Catholic Church in Nyanga, Cape Town and has worked with both Internally Displaced People (IDPs) and refugees in Jesuit Refugee Service (JRS) projects in South Sudan and Northern Uganda. In South Africa, he was the Advocacy and Information Officer for JRS. During his theological studies in London, he worked as a volunteer for JRS UK and he was the Country Director for JRS South Africa. Rampe is a member of the Southern African Catholic Bishops Conference (SACBC) Migration group and the Africa representative in the Global Ignatian Advocacy Network (GIAN) Migration Group. Since March 2021 he has been the Social Apostolate and the Migration Delegate for Southern African Province of the Society of Jesus.



Fr. Peter-John Pearson

Fr. Peter-John Pearson is a priest of the Archdiocese of Cape Town. He is currently the director of the Catholic Parliamentary Liaison Office (CPLO) in Cape Town. He was also Vicar-General of the Archdiocese. Fr. Pearson is a well-known lecturer and speaker - specifically on Catholic Social Teaching.



Sr. Melanie O'Connor HF

Melanie O' Connor HF, belongs to the Sisters of the Holy Family of Bordeaux in South Africa. In 2008 she was asked to set up and co-ordinate a Human Trafficking Desk- a new and joint project of the LCCL(SA) and the SACBC. Being a teacher by profession for several years, she has done much both in South Africa and neighbouring countries to educate religious and laity about human trafficking and has capacitated them to educate and mobilize others against this terrible crime we have on our doorsteps. She also has good experience in accompanying survivors of human trafficking post shelter, now and again. She is the author of the book *The Church and Human Trafficking* in the SIGNS OF THE TIMES, a series of Cluster Publications in Pietermaritzburg.



Sr. Maria de Lurdes Lodi Rissini, MSCS

Sr. Maria de Lurdes Lodi Rissini is a Scalabrinian Missionary Sister. She studied a Bachelor in Catechesis Missionary at the University of Urbaniana in Rome – Italy and she has a diploma in Social Work from PUCRS – Pontifical Catholic University of RS – Brazil with Specialization on Migration, Exclusion and Social Politics for Integration of Migrants. Since 1985 Sr. Maria has worked with migrants and refugees in many countries such as Brazil, Italy, the Philippines, Spain and South Africa. In South Africa, she worked at Bienvenu Shelter for Refugees women and their children, Department of Pastoral Care for Migrants and Refugees – Archdiocese of Johannesburg and since 2018, she has been the Coordinator of Caritas South Africa, in charge of the Southern African Catholic Bishops' Conference (SACBC) Migrants and Refugees Office.

Foreword

Migration has become a worrisome phenomenon throughout the whole world. It is one of the key 'signs of the times' and involves different spheres: economy, sociology, politics, health, culture or security. All Christians are called to respond to migration as a matter of faith, not simply as a matter of goodwill. The reality of human mobility in South Africa requires an integrated approach of social assistance and an understanding of both the phenomenon and the advocacy involved. It also requires specific Pastoral Care in all the dioceses, parishes, communities and with the migrants and refugees themselves.

For this reason, at their Plenary session in February 2016, the SACBC decided to implement a National Office for Migrants and Refugees, to coordinate the apostolate in the Southern Africa Region.

The need for Guidelines for Pastoral Care of Migrants and Refugees in the SACBC arises from the reflection of how the Church can speak to the needs of Migrants and Refugees living in our Dioceses. We are all conscious of the challenges that are faced every day and the need to work together on the socio-pastoral issues in our Church. Our approach, therefore, must be an integrated one that respects both the needs of the displaced persons and those of the hosting community.

These guidelines are suggestions that can help us to work together in the light of welcoming, protecting, promoting and integrating the migrant and refugee communities in the local church.

They are based upon the teaching of Sacred Scripture and the Magisterium of the Church, with principles and characteristics rooted in the field of migration within Southern Africa. One of the reference documents chosen for this guidelines is "Erga Migrantes Caritas Christi (EMCC)", (Magisterium Documents), the letters and recommendations' from Pope Francis as well as the SACBC Plenary Session Resolutions 2019 for Migrants and Refugees in Southern Africa.

+Buti Tlhagale, OMI
SACBC Liaison Bishop for Migrants and Refugees

Pretoria, 08th December 2021
Feast of the Immaculate Conception.

Introduction

The SACBC Migrants and Refugees Office compiled this tool for the training of Diocesan Pastoral Care Agents. The manual serves as a foundation and a companion to those involved in structuring Pastoral Care for Migrants and Refugees in their Dioceses. It will enable them to have a better understanding of both human mobility and how to interact with the different sectors. Ongoing formation is indispensable to all Pastoral Care Agents that wish to construct a better environment for migrants, refugees and host communities.

The manual is the first of its kind and is a guide for the migrant ministry within the Southern African territories of the SACBC. It is a collection of seven teaching units with the participation of different authors, to be used as a reference and training guide for the Pastoral Care for migrant and refugees ministry.

The information within it has been developed based on materials of the international and national legislation on Human Mobility, sources of Catholic Social Teaching of the Catholic Church on Migration and experiences from organizations working on human mobility. Each chapter offers an overview of Socio-Pastoral Care that includes recommendations and suggestions for the Diocesan Pastoral Care Agent to present and implement. We hope that these training resources become a relevant companion for those who are involved in this important ministry.

Lastly, we wish to acknowledge, with many thanks, “8XMille” for funding this important project through the Italian Bishops’ Conference of Italy (CEI). Their support makes an enormous difference in the Ministry of Pastoral Care for Migrants and Refugees in all SACBC territories (South Africa, Botswana and Eswatini).

Sr Maria de Lurdes Lodi Rissini mscs
Co-ordinator
SACBC – Pastoral Care for Migrants and Refugees

Acronyms

CotM Children on the Move

IDP Internally Displaced Person

IOM International Organization for Migration

NGO Non-Governmental Organization

PoC Person of Concern

PPC Parish Pastoral Council

SACBC South African Catholic Bishops Conference

SASSA South African Social Security Agency

SGBV Sexual and Gender-Based Violence

UNHCR United Nations High Commission for Refugees

UNODC United Nations Office of Drugs and Crime

INTERNATIONAL MIGRATION IN SOUTHERN AFRICA

Att. Sally Gandar

Introduction

This chapter aims to equip you with knowledge about international migration in South(ern) Africa to enable you to appreciate the concept and apply it in your work as an agent of Pastoral Care for Migrants and Refugees in the Southern African region. This includes application on a one-on-one basis, as well as higher-level advocacy engagements at local, national, and regional levels.

The way this will be approached is by equipping readers with the basic structures of applicable law and policy, as well as the practical realities that may present themselves. It will also provide specific examples, particularly when it comes to more vulnerable groups, such as children (particularly unaccompanied or separated children, and those at risk of statelessness) as well as women, victims of gender-based violence, and smuggled persons or those who have been victims of trafficking.

Objectives

This chapter has the following objectives. By the end of the chapter:

- You will have an understanding of the basic definitions regarding refugees and migrants, how they differ, and some of the similarities and overlaps.
- You will have a more nuanced understanding of some of the facts and the numbers regarding international migration in South Africa.

- You will have an understanding of the international and regional legal frameworks that apply to refugees and migrants in South(ern) Africa.
- You will have an understanding of some of the domestic (country-specific) laws and policies that apply to refugees and migrants in South Africa.
- You will have a specific understanding of how children fit into this picture. There is a growing phenomenon of children migrating on their own, with their own assistance needs.
- Finally, you will be able to understand the documentation and immigration status needs of refugees and migrants, as well as their rights and responsibilities and the responsibilities and services that should be provided by the state.

International Migration: People and Children on the Move in South(ern) Africa – the realities, the legal frameworks, the barriers, and some approaches to assistance

This section approaches the topic of international migration in South(ern) Africa from several perspectives. First, it provides a list of common definitions, including focusing on some language or terms that could be used instead of ones that are more negative or have a worse connotation. Secondly, this section gives a brief overview of the numbers of international migrants in South Africa. This is a question that is often asked, but not easily answered. Third, it provides some of the historical contexts of migration in South Africa and the region. Thereafter, the remaining sections provide information on the international and regional laws and policies that apply in South Africa, and how they apply, as well as how the practical reality may differ. Lastly, this section looks at some of the important pieces of litigation and court judgments that impact refugees, asylum seekers, and the field of immigration in South Africa more generally. These court cases show some of the ways that the law has been interpreted, as well as ways that the courts have addressed barriers experienced on the ground, or instances when rights have not been accessible when they should.

Definitions

Adult – An adult is an individual who is over the age of 18 years.

Asylum seeker – According to the United Nations High Commissioner for Refugees (**UNHCR**), an asylum seeker is someone whose request, to a government or state that is not their home one, for protection (sanctuary) has not yet been processed to finality.¹ In South Africa, an asylum seeker is issued with a Temporary Asylum Seeker Visa also known as a “section 22 permit”, which is renewed periodically as they wait for the Department of Home Affairs to adjudicate their asylum claim.

Child – The legal definition of a child differs from one country’s laws to another. In South Africa, a child or a ‘minor’ is anyone under the age of 18 years old. This is in line with the universally accepted definition according to the United Nations Convention on the Rights of the Child (**UN CRC**). It should be noted that children also migrate – either on their own or with adults (whether relatives or not). The concept of child participation, defined below, should always be considered when offering assistance to a child migrant.²

Children on the Move – Children on the Move (**CotM**) are defined as ‘Children moving for a variety of reasons, voluntarily or involuntarily, within or between countries, with or without their parents or other primary caregivers, and whose movement, while it may open up opportunities, might also place them at risk (or increased risk) of economic or sexual exploitation, abuse, neglect, and violence. See below for the definition of unaccompanied and separated children. A distinction should be made between various children on the move, based on their motivations/reasons for moving. The four general categories are:

¹ For more information about the term asylum seeker, see:

<https://www.unhcr.org/asylum-seekers.html>

² For more on the Convention on the Rights of the Child’s definition of a child, see <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

Internally displaced persons (**IDPs**); asylum seekers or refugees; migrants (i.e. those moving for economic reasons, or due to the climate crisis, both internally or across an international border); and trafficked persons.

Child participation – The UN Convention on the Rights of the Child and other international legal instruments and laws within South Africa, provide for child participation. What this means is that where a child is involved; and is capable of forming an opinion or views on something that impacts them, then they have a right to express those views and their opinion must be given due weight by their age and maturity. This means that where a decision impacts a child, they should be consulted, not at the last minute once a decision has already been made, but all the way through a process. They should be provided with information and counselling so they feel safe to express their needs and opinions concerning decisions that will impact them and their future. This concept is particularly important for children on the move.³

Documentation and Immigration Status – These two concepts must be considered together as they are often conflated and confused. Many people use the term ‘undocumented’ to describe a situation where someone has no valid or lawful immigration visa to be in South Africa. However, that person may have a passport and simply does not have a visa in their passport. This means that the individual is not undocumented (i.e. because they have a passport), but they are without valid immigration status (i.e. their immigration status is irregular or has become irregular). To not have documentation or even access to documentation proving your identity, may put an individual at risk of statelessness. However, if a person has documentation, but no immigration status, then the major risk that they face is the risk of deportation. The nuance regarding documentation and immigration status is particularly important when trying to assist

³ For more about the concept of child participation, see Article 12 of the UN CRC at the following link:

<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

unaccompanied or separated migrant children, as the lack of any document at all may make it more difficult to do family tracing and identify reunification options, and also means that the child is at risk of statelessness.

No person is illegal:

Please note that in the above description regarding documentation and immigration status, the words 'irregular' and 'regular' have been used. This is in recognition of the fact that no person is illegal, and that while official laws and documents sometimes describe people as such, to do so is to deny them their humanity.

Illegality is a form of status that has been deliberately used to refer to undocumented persons or persons without immigration status. It is a type of terminology that is used to try and justify why that group of people might be undeserving of rights. Words matter, and the language we use shapes our perceptions as well as the perceptions of others. By using 'regular' and 'irregular' we are trying to show that the duty bearer in this circumstance is the state, which should be assisting in ensuring that individuals can access documentation and immigration status and are not forced into 'illegality' or criminalized simply for living an undocumented life.

Internally Displaced Person (IDP) – An IDP is a person who has not yet crossed an international border to find safety/protection. So, unlike refugees or asylum seekers who have to be outside of their country of ordinary residence, an IDP is someone who is still in their own country, but who has been displaced for one reason or another. Reasons that people may be displaced could be because of war or natural disasters, and who have fled their area of residence to a place where they may more easily receive humanitarian assistance. The displacement in this context is forced, it is not by choice, and so while an IDP may still be in their home country, they may still require protection and assistance. Traditionally, South Africa is not a country that has IDPs, however, there are examples

from neighbouring countries, such as in Mozambique with the current conflict taking place in Cabo Delgado.

Migrant – The International Organization for Migration (**IOM**) describes ‘migrant’ as an umbrella term not defined under international law, but which reflects an understanding of a person who moves away from their usual residence. This can be within a country (internal migrant) or across an international border (cross-border migrant). It includes people who have forcibly moved, and who may have crossed the border at a recognized border post (**Port of Entry**) or not. Usually, the latter two are distinguished in terms of being either a ‘regular migrant’ or an ‘irregular migrant’ which means that terms such as legal and illegal can be avoided because of the negative connotations associated with them.⁴

Migrant/refugee children – A refugee child is a child who has a refugee claim after having fled their country of origin due to war, conflict, or persecution. This means that they have a refugee claim in their own right, and not through the claim as a dependent of an adult with a claim. A refugee child can, however, also be the child of a parent or caregiver who has a claim for refugee status. In this case, they would be ‘joined’ to their parent or caregiver’s refugee file as a dependent. If a child leaves their country of origin for other reasons, such as school or to find work and not for protection-related reasons, then they would not be eligible for protection under the Refugees Act or UN Refugee Convention.

People smuggling – This is the act of transporting a person across an international border, but not through a recognized or formal border post or port of entry. In some cases, the person being smuggling will pay someone to assist them across the border. The United Nations Office on Drugs and Crime (**UNODC**) defines people or migrant smuggling as the facilitation, for financial or other material gains, of irregular entry into a

⁴ For more information about the term migrant, see:

<https://www.iom.int/node/102743>

country where the migrant is not a national or resident.⁵ Child smuggling is defined as ‘the illegal transportation of children for profit’ as set out in the Protocol Against the Smuggling by Land, Sea, and Air (Migrant Smuggling Protocol) supplementing the UN Convention Against Transnational Organised Crime.⁶

Person of concern (PoC) – This is a term often used by international agencies such as the UNHCR. It refers to persons who may require international protection as defined in the Refugees Convention. In South Africa, persons of concern would-be asylum seekers as well as refugees, but could also include someone who has not yet tried to claim asylum with the Department of Home Affairs, but who wants to or who has grounds upon which to claim asylum and requires international protection.

Refugee – A refugee is a person who has fled either war or persecution in their home country, and who has crossed an international border to seek the protection of another government and find safety in another country.⁷ In South Africa, a refugee who has been recognized as such by the Department of Home Affairs is issued with a Formal Refugee Recognition document, also known as a “section 24 document” which has to be renewed usually every four years. Refugees in South Africa are entitled to apply for a refugee travel document as well as a refugee Identity Document. Both of these are only valid for as long as their formal recognition document is valid. Importantly, a travel document should not be used to travel back to the refugee’s home country, as this could place their recognized refugee status in jeopardy. Refugees in South Africa are

⁵ For more information regarding people smuggling, see:

<https://www.unodc.org/unodc/en/human-trafficking/migrant-smuggling/migrant-smuggling.html>

⁶ For more information regarding child smuggling, see:

https://www.unodc.org/documents/middleeastandnorthafrica/smuggling-migrants/SoM_Protocol_English.pdf

⁷ For more information about the term refugee, see:

<https://www.unhcr.org/what-is-a-refugee.html>

also entitled to apply for social assistance, through social grants from the South African Social Security Agency (**SASSA**).

Separated child(ren) – A separated child is a person under the age of eighteen years who is living or moving with their relatives but not with parents or their previous legal or customary primary caregivers.⁸ Separated children may be in the care of an informal guardian once they arrive in South Africa, but the care relationship is not formalized. When assisting separated children, the particular needs that should be understood relate to assessing the care situation that they are presently in, as well as assisting with family tracing, and family reunification or re-establishment of family links.

Sexual and Gender-Based Violence (SGBV) – The UNHCR defines SGBV refers to harmful acts directed at an individual based on their gender. This could include sexual, physical, mental, and economic harm inflicted in public or in private on an individual. It also includes threats of violence, coercion, and manipulation. It can take many forms, including intimate partner violence (IPV), child marriage, female genital mutilation (FGM), and so-called ‘honour’ killings. Survivors of SGBV may often flee their country of origin as a result of what has happened to them. They often need additional support, including access to mental health and psychosocial support, and debriefing, to assist them once they have arrived in the country in which they seek to claim asylum. Importantly, SGBV can and does also take place once a person has reached a country of asylum, and is an issue that pastoral care providers should be mindful of when trying to assist people on the move, including children.

Stateless or at risk of statelessness – A stateless individual is someone who is not considered to be a citizen or national of any state. The 1954

⁸ For more information about this, see: General Comment Number 6 (2005) Treatment of unaccompanied and separated children outside their country of origin. Para 8: <https://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>

Convention relating to the Status of Stateless Persons defines a stateless person as someone whom no state considers to be a national under the operation of its law. This is elaborated upon through the UN Guidelines (2012) which indicated that determining whether a person is stateless is a mixed question of both fact and law. Statelessness, as well as lack of recognition of nationality, impact an individual's ability to access services and rights, without proof of identity a person is often unable to be formally employed, access health care, education, or even a bank account.

Trafficking – The UNODC defined human trafficking as the recruitment, transportation, transfer, harbouring, or receipt of people through force, fraud, or deception, to exploit them for profit. All persons are at risk of being victims of trafficking – men, women, girls, and boys. Many potential traffickers will use the lure of a job or education to trick their victims to come with them to another destination (either within their own country – such as from a rural area to an urban one; or across an international border). The Palermo Protocol defines trafficking of children as the 'recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation, even if this does not involve any fraudulent means such as violence, deception or coercion'. A child for these purposes is defined as any person below the age of 18 years. Trafficking should not be confused with people smuggling, which has been described above.⁹

Unaccompanied child(ren) – An unaccompanied child is a person under the age of eighteen years old who is without the care of those responsible to do so by law or custom. In South Africa, an unaccompanied migrant child could be a child crossing into South Africa from elsewhere either to seek asylum or sometimes for other reasons, such as to seek employment. Thus, unaccompanied children can either be ones who need assistance in accessing the asylum system, or who need assistance in understanding the immigration system and what laws apply to them. Unaccompanied

⁹ For more information regarding trafficking, see:

<https://www.unodc.org/unodc/en/human-trafficking/human-trafficking.html>

children may need specific assistance as they are seen to be children in need of care and protection. This means that a social worker would need to be consulted to best assist such children in South Africa

Xenophobia – Xenophobia is the fear or hatred of persons perceived to be ‘foreign’ and from another country. It can include direct physical attacks, but also more institutionalized forms of xenophobia and discrimination, such as refusal to offer services to a person because they are not South African, or because they are perceived to not be South African. It could also include discriminatory treatment of persons based on a perception that they are not South African, such as where those perceived to be not South African are made to pay medical bills upfront before receiving services at a state hospital when the same standard is not applied to South African citizens. Xenophobia is a significant issue in South Africa, and people from communities on the move experience it in varying degrees. There is a significant need for more integration, social cohesion work, and understanding between local ‘host’ communities, and non-citizens in South Africa.

History

South Africa has a long history of migration, particularly within the region. Before colonization, there was a significant movement of people across the Southern African region. Post-colonisation, this continued and included the movement of people to South Africa from various areas in the world. In addition to these movements from more than just the region or African continent, the more recent historical context also saw the creation of borders in Southern Africa by colonial authorities. Many of these borders cut across areas where families or larger relational networks lived. Some also, as we still see today, separated people in one area from the closest larger trading post or town, making it more difficult for them to access goods and services because a border meant that a previously close trading area was now rendered inaccessible to them. These historical

impacts of migration continue to shape some of the international migration trends that we see in South(ern) Africa today.

In addition to the above, when gold and diamonds were discovered in South Africa, as well as other minable minerals, active policy decisions were made by the governments of the time and the mining companies to secure cheap labour. This was done through the active encouragement and recruitment of migration to South Africa to work on the mines. This included mining companies recruiting mine workers from neighbouring countries such as Mozambique, Zimbabwe, Malawi, and elsewhere. South Africa's own internal historical context, and the divisions drawn up by the Apartheid government, have also played a significant role in shaping internal migration in the country. As with the recruitment of mineworkers from neighbouring countries, the mining companies did the same from what was then known as the "homelands" or "bantustans" (a term used to describe the so-called separate states that the Apartheid government set up for South Africa's black majority, but which were not recognized by any other government). These "homelands" were only recognized by the then-South African government and were not only discriminatory but also unlawful in terms of international law. Many of the former "homelands" continue to be rural areas within South Africa, that remain underdeveloped and often under-resourced, meaning that the internal migratory pattern for migrant labour within South Africa from rural to urban areas persists.

The Numbers

It is not easy to provide the exact number of cross-border migrants in South Africa. Over time, the numbers do appear to be reducing. In the National Census in South Africa in 2011, it was shown that there were 4,2 million "foreign-born" people in the country. This amounted to approximately 4.2% of the total population then. The next national census is scheduled to take place in 2021, and so the information that we have from the national census is almost a decade old. In between these

censuses, Statistics South Africa does Community Surveys, where they collect the same information, but across several communities rather than on the large scale done in the national census. These community surveys show the trends and are usually a good predictor of what the information will say in the next national census.

In the 2016 Community Survey,¹⁰ it was found that the number of foreign-born people in South Africa had reduced to 1,6 million – 2.8% of the population. However, in 2021, Statistics South Africa stated that the mid-year population estimates indicate that there may be approximately 3,95 million foreign-born persons in South Africa.¹¹ Below are three tables from the 2016 Community Survey showing the information about the people behind these numbers – whether they're male or female, and what age they are, as well as how long they have spent in South Africa, and what their country of birth is.

¹⁰ To see the full document, see:

http://cs2016.statssa.gov.za/?portfolio_page=census-2011-fact-sheet

¹¹ For more on this, see: <http://www.statssa.gov.za/?p=14569>

Table providing information about foreign-born persons living in South Africa, as indicated in the 2016 Statistics South Africa Community Survey

Age and sex information for those persons living in South Africa, but foreign-born (2016)

Table 3.1: Distribution of persons born outside South Africa by age and sex

| Age group | Census 2011 | | | CS 2016 | | |
|--------------|------------------|----------------|-------------------|----------------|----------------|-------------------|
| | Male | Female | Total | Male | Female | Total |
| 0-4 | 39 724 | 38 707 | 78 432 | 19 154 | 18 708 | 37 863 |
| 5-9 | 29 054 | 28 852 | 57 906 | 18 968 | 19 512 | 38 479 |
| 10-14 | 24 888 | 23 911 | 48 799 | 18 687 | 21 213 | 39 900 |
| 15-19 | 51 090 | 42 041 | 93 130 | 29 972 | 29 495 | 59 467 |
| 20-24 | 182 258 | 126 915 | 309 172 | 82 205 | 75 919 | 158 123 |
| 25-29 | 260 124 | 160 588 | 420 712 | 144 442 | 107 459 | 251 900 |
| 30-34 | 212 943 | 114 879 | 327 822 | 147 201 | 99 531 | 246 732 |
| 35-39 | 150 729 | 78 436 | 229 165 | 141 582 | 77 844 | 219 426 |
| 40-44 | 98 860 | 55 523 | 154 383 | 97 071 | 49 741 | 146 812 |
| 45-49 | 68 062 | 44 592 | 112 655 | 65 110 | 34 240 | 99 350 |
| 50-54 | 52 088 | 37 775 | 89 863 | 44 155 | 26 722 | 70 877 |
| 55-59 | 38 785 | 29 850 | 68 634 | 32 314 | 24 222 | 56 535 |
| 60-64 | 32 242 | 27 304 | 59 546 | 23 269 | 18 035 | 41 305 |
| 65-69 | 25 769 | 22 342 | 48 111 | 21 163 | 17 977 | 39 140 |
| 70-74 | 19 586 | 17 311 | 36 898 | 15 597 | 16 566 | 32 163 |
| 75+ | 25 078 | 28 566 | 53 643 | 17 151 | 23 318 | 40 469 |
| Total | 1 311 280 | 877 592 | *2 188 872 | 918 040 | 660 501 | *1 578 541 |

*Total numbers of persons who reported that they were born outside South Africa includes those who did not respond on year moved into South Africa.

Year of arrival in South Africa for those living here who are foreign-born (2016)

Table 3.2: A comparison of number of persons who reported that they were born outside South Africa

| Year moved to SA | Census 2011 | Community Survey 2016 |
|-------------------------|--------------------|------------------------------|
| 1996 | 30 336 | 22 232 |
| 1997 | 27 375 | 14 612 |
| 1998 | 35 731 | 24 170 |
| 1999 | 41 381 | 33 271 |
| 2000 | 66 485 | 56 599 |
| 2001 | 45 459 | 25 183 |
| 2002 | 43 396 | 28 119 |
| 2003 | 54 109 | 30 391 |
| 2004 | 65 283 | 37 303 |
| 2005 | 85 482 | 51 383 |
| 2006 | 107 881 | 63 908 |
| 2007 | 139 195 | 66 591 |
| 2008 | 173 091 | 91 524 |
| 2009 | 183 435 | 87 579 |
| 2010 | 189 125 | 112 438 |
| 2011 | 236 316 | 61 029 |
| 2012 | n/a | 66 509 |
| 2013 | n/a | 83 058 |
| 2014 | n/a | 77 891 |
| 2015 | n/a | 121 161 |
| 2016 | n/a | 56 875 |
| Total | 1 524 080 | *1 211 824 |

*Total number of persons who reported that they were born outside South Africa excludes those who did not respond to year moved into South Africa

Country of origin for those foreign-born individuals living in
South Africa (2016)

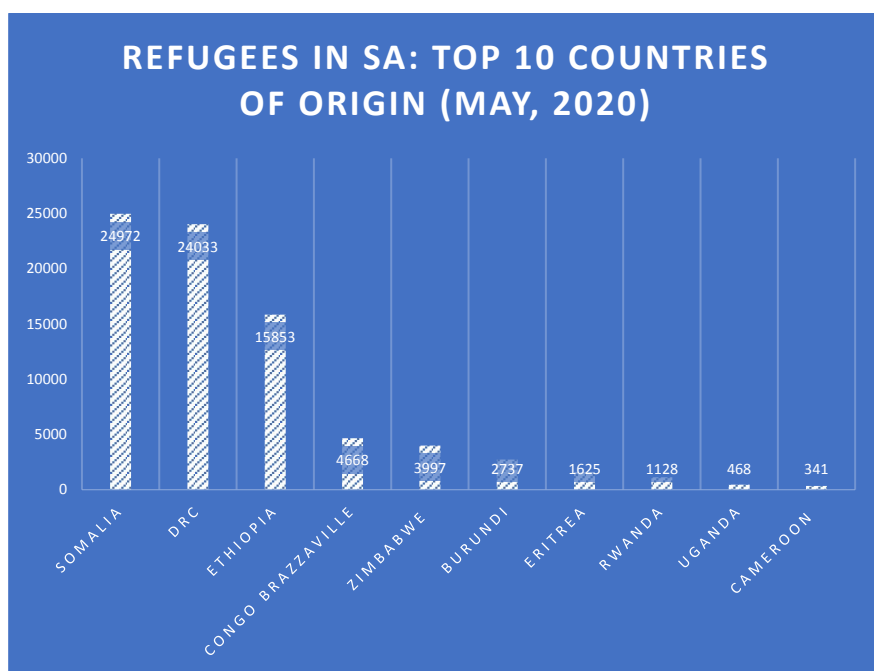
Table 3.3: Distribution of top 20 sending countries, 2011 and 2016

| 2011 | | | 2016 | | |
|--|----------|----------|------------------------------|----------|----------|
| Sending country | N | % | Sending country | N | % |
| Zimbabwe | 672 308 | 38,1 | Zimbabwe | 574 047 | 39,6 |
| Mozambique | 393 231 | 22,3 | Mozambique | 293 405 | 20,2 |
| Lesotho | 160 806 | 9,1 | Lesotho | 160 749 | 11,1 |
| Malawi | 86 606 | 4,9 | Malawi | 78 796 | 5,4 |
| United Kingdom/Great Britain | 81 720 | 4,6 | United Kingdom | 56 412 | 3,9 |
| Namibia | 40 575 | 2,3 | Swaziland | 38 038 | 2,6 |
| Swaziland | 36 377 | 2,1 | Congo Democratic Republic of | 31 504 | 2,2 |
| India | 31 165 | 1,8 | Namibia | 30 701 | 2,1 |
| Zambia | 30 054 | 1,7 | Nigeria | 30 314 | 2,1 |
| Ethiopia | 28 230 | 1,6 | India | 25 063 | 1,7 |
| Nigeria | 26 341 | 1,5 | Ethiopia | 22 148 | 1,5 |
| Somalia | 26 116 | 1,5 | Zambia | 19 119 | 1,3 |
| Congo | 26 061 | 1,5 | Germany | 13 894 | 1,0 |
| Democratic Republic Of The Congo (Zaire) | 25 630 | 1,5 | Bangladesh | 12 764 | 0,9 |
| Germany | 20 494 | 1,2 | Pakistan | 11 157 | 0,8 |
| Bangladesh | 19 696 | 1,1 | Somalia | 10 954 | 0,8 |
| Pakistan | 17 241 | 1,0 | Botswana | 10 759 | 0,7 |
| Portugal | 15 626 | 0,9 | Congo | 10 686 | 0,7 |
| China | 15 071 | 0,9 | Portugal | 9 931 | 0,7 |
| Botswana | 12 316 | 0,7 | Ghana | 8 943 | 0,6 |

When looking at the above numbers, it is important to understand that these represent cross-border migrants in South Africa who may have regular immigration status, or might not. In the next few paragraphs, we will look at some of the information that we have regarding the numbers of people who do have regularised immigration status: asylum seekers, refugees, and other groups of migrants who form part of the numbers provided above.

The number of asylum seekers and refugees in South Africa has changed over the years. The most recent statistics indicate the total number of

active refugee and asylum files at the Department of Home Affairs is approximately 270 000. This includes 188 296 asylum seekers¹² and 80 758 refugees¹³. The graph below provides the top ten countries of origin for recognized refugees in South Africa at the moment. Other countries that South Africa receives refugees from include, Afghanistan, Cambodia, Central African Republic, Chad, East Timor, Egypt, Iran, Iraq, Jordan, Kenya, Malawi, Niger and Nigeria, Palestine, Russia, Serbia, Sudan, Swaziland, Syria, Yemen, and Zambia as well as several others.¹⁴



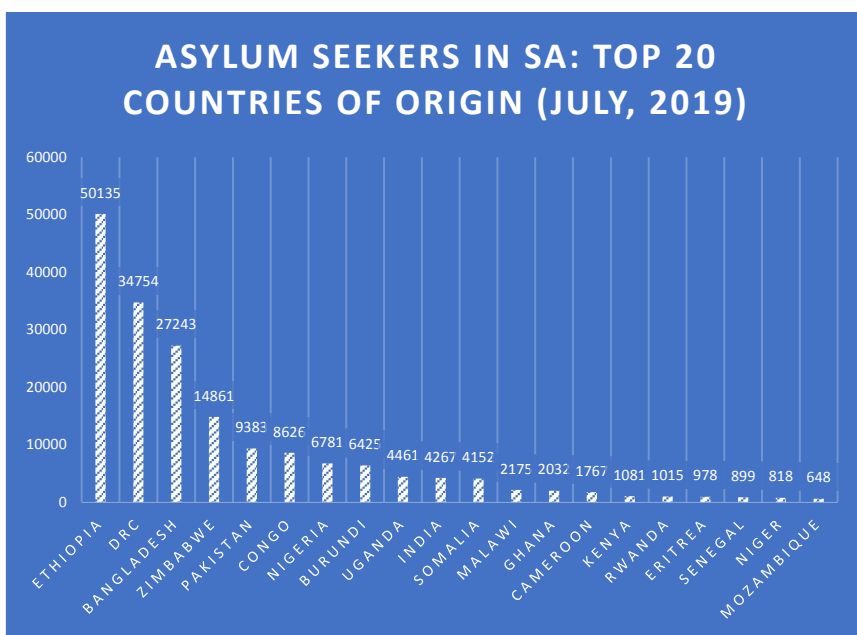
Similarly, the top twenty countries of origin for persons on asylum seeker status in SA, as of July 2019, are provided in the graph below. Additional countries not listed on the graph include ones such as Egypt, Algeria, Ivory

¹² This was the number on 1 January 2020, see: <https://pmg.org.za/committee-question/13290>

¹³ This was the number as at 31 March 2020, see: <https://pmg.org.za/committee-question/13510>

¹⁴ This information is taken from a report from the Minister of Home Affairs to Parliament, see: <https://pmg.org.za/committee-question/13510>

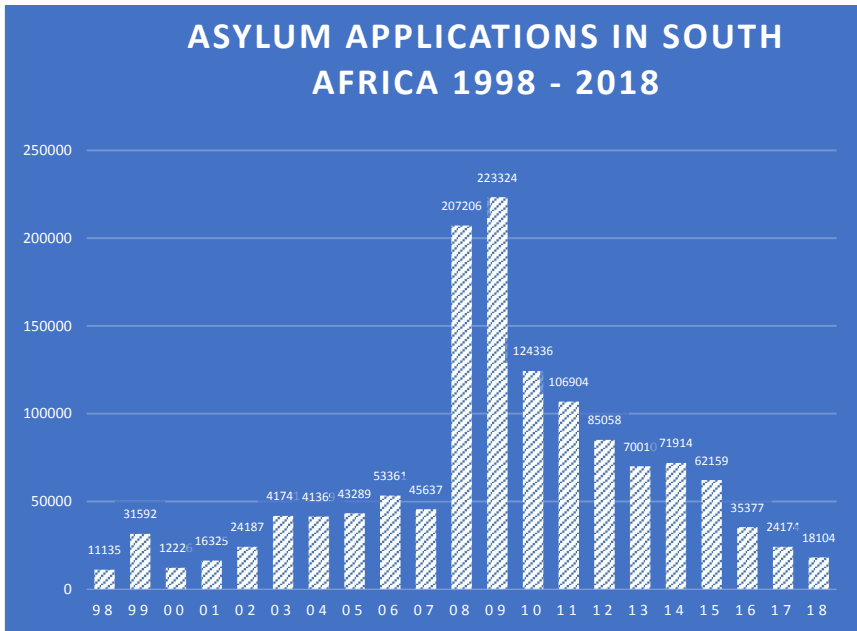
Coast, China, Mali, Nepal, Sudan, Syria, Swaziland, Afghanistan, Yemen, Palestine, East Timor, Iraq, Central African Republic, Turkey, Bahrain, Jordan, Mauritania, Madagascar, Iran, Azerbaijan, Kyrgyzstan, Burma, Russia, and Lebanon.¹⁵



Historically, the total number of refugees and asylum seekers has fluctuated quite dramatically. The graph below provides information about the total number of asylum applications lodged per year from 2008 to the most recent year that we have the information for being 2018. What this graph shows is that while there was a peak in or around 2008/2009 – the time of the global financial crisis as well as the time of the political crisis in Zimbabwe. The number of asylum applications has been steadily decreasing. It is difficult to understand the exact reason for this. The decrease in applications for asylum in South Africa could be a combination of factors, including simply that people are less able to access South

¹⁵ This information is taken from a report from the Minister of Home Affairs to Parliament, see: <https://pmg.org.za/committee-question/11798>

Africa’s asylum system, or that they are finding different types of documentation to enter the country on, or different countries are their country of flight.



More information about refugees and asylum seekers in South Africa is included in the section below.

In terms of the numbers of visas issued in terms of the Immigration Act, we do not have the exact numbers. However, what has been reported is that between 2015 and 2018, the number of critical skills visas applied for increased from 3852 in 2015/16 to 6697 in 2017/18. Of those numbers only about half, or just over half, are approved.

One further key group of foreign-born persons in South Africa that can easily be counted is the number of people who are on Special Dispensation Permits. This includes persons on the Zimbabwean Exemption Permit, the Lesotho Exemption Permit, and the Angolan Special Permit. More information about the origins of these special dispensations is provided in the relevant section below. However, in terms of numbers, the

approximate number of persons on the Angolan Special Permit is between 2000 and 3000. The total number that we have for the Zimbabwean Exemption Permits was provided in 2017 as 197 941.¹⁶ No figures have been published in respect of the Lesotho Exemption Permit. All of these permits are due to expire on 31 December 2021. While a further application and renewal process has been made available for those on the Angolan Special Permit, as of October 2021, no further information had been provided regarding prospects for renewal of the Zimbabwean and Lesotho Exemption Permits.

Risk of Statelessness

While South Africa's Constitution, as well as its obligations in terms of international law, provide that every child born in South Africa has a right to a name and a nationality, and thus should be issued with a birth certificate, in practice, there are many gaps (including legal difficulties and administrative ones) which place children and adults at risk of statelessness. As indicated in the definitions section of this guide, a stateless individual is someone who is not considered to be a citizen or national of any state – and is not recognized as such either by law or in fact. A significant factor in ensuring that there is less of a risk of statelessness for individuals in a particular country is to ensure access to universal birth registration. In South Africa, while no reliable information or statistics indicates the exact number of people who may be at risk of statelessness, there is information about birth registration and barriers to birth registration. Statelessness and the risk of statelessness affects South African citizens as well as non-citizens. The paragraphs below provide information specifically relating to non-citizens, but it should always be

¹⁶ For more information, see: <http://www.dha.gov.za/index.php/statements-speeches/1034-statement-by-minister-mkhize-on-the-closure-of-the-zimbabwean-special-permit-zsp-and-the-opening-of-the-new-zimbabwean-exemption-permit-zep>

understood that the risk of statelessness is a risk faced by many in South Africa, citizens, and non-citizens alike.

In a 2018 Statistics South Africa Report,¹⁷ the historical pattern of birth occurrence and registration between 1995 and 2018 and current trends in birth registration shows that while there has been an increase in prompt birth registration in recent years, there is still a deficit and that more than 10% of births in South Africa are not registered within the first 30 days. The Birth and Deaths Registration Act is the legislation that provides the process for how births must be registered in South Africa, and who can register a birth. In general, the barriers to birth registration affect those who are most marginalized – that is, those in rural areas with difficulties accessing Department of Home Affairs services, or migrants, refugees, and asylum seekers. Key barriers to birth registration for migrants, asylum seekers, and refugees in South Africa are the requirements that the parents of the child must have valid documentation and immigration status; the 30-day registration of birth time restriction; restrictions on guardians being able to register the birth of a child; a separate procedure that unmarried parents have to undertake to register the birth of a child; and difficulties in registration of birth of a foundling (a child abandoned at birth or shortly thereafter). Ensuring that a birth is registered is the first step in reducing the risk of statelessness for a child. Pastoral care agents can assist with this either through encouraging the registration of a birth within the first 30 days since birth, as well as through accompaniment to the closest Department of Home Affairs office. A recent Constitutional Court judgment has also made it possible for fathers to register the birth of a child, this is particularly useful if the father has valid documentation and immigration status and the mother does not, as this will ensure the birth of the child is registered. Once a birth is registered in South Africa, it should also be registered at the relevant embassy or consulate (in the case

¹⁷ For more information, see:

www.statssa.gov.za/publications/P0305/P03052018.pdf

of cross-border migrants) or the Refugee Reception Office (in the case of asylum seekers and refugees).

A further issue that increases the risk of statelessness, but which is unrelated to the registration of births, is access to documentation for unaccompanied or separated foreign children. For many, if they do not remember details of their country of origin and family, they may not be able to access documentation from their relevant embassy or consulate; and without a parent or guardian present in South Africa they also may not be able to access immigration or refugee documentation in South Africa. This lack of pathways to documentation increases the risk of statelessness for such children.

Asylum Seekers & Refugees: The Refugees Act

South Africa's asylum system is an urban integration model, also known as an 'urban protection policy' which encouraged refugees to integrate into local communities. This means that in South Africa there are no refugee camps. Instead, refugees and asylum seekers have the right to freedom of movement and can live anywhere in the country. What it also means is that they are not provided with education or healthcare through special camp-based systems, but must access these services in the same way that any other South African or person in South Africa would, through either the public sector or the private sector.

Prior to the COVID-19 related lockdown and associated border closures, there were approximately 188 000 asylum seekers in South Africa (registered with the Department of Home Affairs) and 80 000 refugees. No new applications have been lodged since March 2020, because the Refugee Reception Offices have been closed to in-person services since then.

South Africa's Refugees Act was passed in 1998 and came into effect in 2000. It was one of the most progressive in the world. However, it has since

been amended, with the amendments coming into effect in January 2020. The amendments undermine the protections that had been included in the original version of the Act, and there are now several parts that may violate international refugee law and could be unconstitutional. Over at least the past decade there has been a shift away from the protection focus of the asylum system, to one of securitization. Refugees and asylum seekers are seen more as a problem to be managed, rather than a group of vulnerable people who require protection and to whom the South African state has committed to protecting based on international law.

There have been many flaws in the South African asylum system, but one of the biggest is the backlogs and delays that it takes to process a refugee claim – delays that leave claimants in limbo for many years. While the initial version of the Refugees Act and Regulations stated that the Department of Home Affairs had to adjudicate a refugee claim within 180 days, this has now been removed from the current version of the Act. In practice, many asylum seekers remain on asylum seeker documentation for many years, living in limbo and having to renew their document periodically at one of the Refugee Reception Offices. This system created many hardships. The context since COVID-19 has changed slightly in that in April 2021, the Department of Home Affairs (**DHA**) implemented a system where asylum seekers and refugees could renew their documentation by email. There are still difficulties and flaws in this email renewal system, but it has also helped many people because they now have not had to travel to far away Refugee Reception Offices to renew their documents. It has also meant that asylum documents are renewed for six or 12 months at a time, which is a welcome change from the DHA.

The Application Process to Become a Refugee in South Africa

The Refugees Act in South Africa says that if an individual comes into South Africa and intends to apply for asylum, they must declare this when they enter the country – at the Port of Entry. They should then be issued an “Asylum Transit Visa” in terms of section 23 of the Immigration Act, which

gives them five days in which to report to a Refugee Reception Office (**RRO**) to lodge their asylum application. The Refugee Reception Offices in South Africa are located in Musina, Pretoria, Durban, Gqeberha (previously Port Elizabeth), and Cape Town (but at the time of writing, and since about 2012, the Cape Town RRO did not accept new asylum applications).

When lodging an application for asylum, the asylum seeker's biometrics will be taken, and they will be asked to fill in the relevant application forms. These can be lengthy and difficult to understand, especially if you are not fluent in English. Assistance is supposed to be provided at the RRO by a refugee reception officer, but it is often helpful for an asylum applicant to understand or have some knowledge of the process before they go to the RRO to fill in the forms. Everything written on the application form must be true and correct, and at the end of completing the form, the asylum applicant will not have an opportunity to change anything that they have said. The language the asylum applicant wants to use in the process must also be indicated on the form. If the asylum applicant came into the country irregularly or does not have an asylum transit visa, they will also be interviewed by an immigration officer about this. If the asylum applicant has a spouse and children, they should be included in the form filled in, and their biometrics must also be taken by the RRO officials.

Once the asylum application form is completed and submitted, the asylum applicant will be scheduled for a Refugee Status Determination (**RSD**) interview, with a Refugee Status Determination Officer (**RSDO**). At this interview, the asylum seeker should be told the procedure by the RSDO and will be asked why they have fled their country and why it may be unsafe to return. After applying for asylum, the asylum applicant together with any dependents should be issued with an asylum seeker visa in terms of section 22 of the Refugees Act. Later, the RSDO should provide a written decision (**RSDO Decision**) regarding the asylum application. The RSDO Decision can either grant asylum, in which case the applicant would be

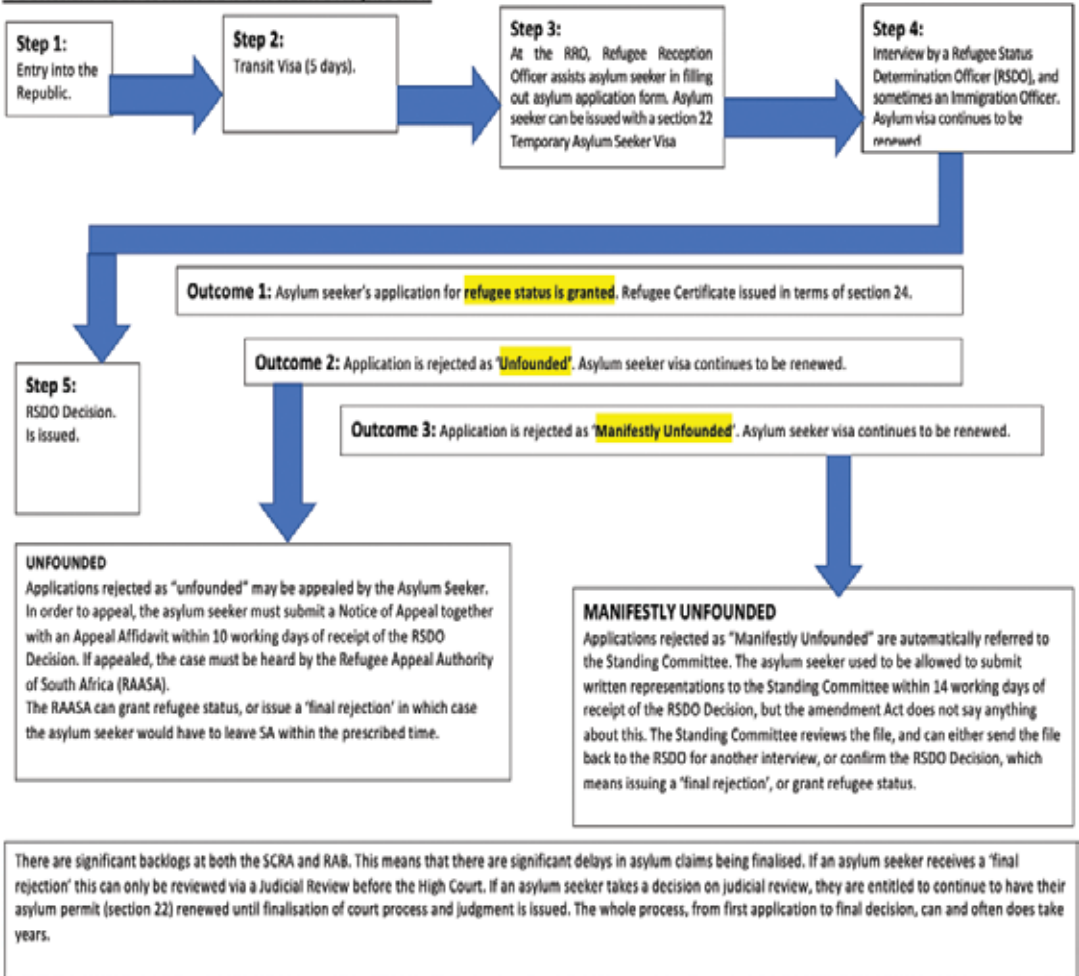
given refugee status, or it can reject the asylum application. The rejection can either be “unfounded” or “manifestly unfounded”.

If the asylum seeker is rejected as unfounded, then they can appeal the reasons for the rejection. It is advisable to get assistance with this appeal, which is written usually in the form of an affidavit. This must be done for the appeal to be lodged. This appeal goes to the Refugee Appeals Authority of South Africa (**RAASA**) where the asylum seeker might be scheduled with another in-person hearing to find out further reasons about their asylum claim. Thereafter, another decision will be issued by the RAASA, which could either grant the person refugee status or reject them again. If they receive a second rejection, known as a ‘final rejection’ then it means that the RAASA does not think that their refugee claim fits into the reasons someone can claim refugee status. If that happens, the only further recourse that the asylum applicant can take is to find a lawyer (either paid or pro bono) and seek a judicial review of the decision before a High Court.

Similarly, if the asylum seeker’s RSDO Decision says the claim is rejected as manifestly unfounded, then the next step for the asylum applicant is that the claim is automatically reviewed by the Standing Committee for Refugee Affairs. The asylum applicant does not have to submit anything further, but usually, there is an opportunity to submit further written submissions about their claim. This can be done with the help of lawyers or those assisting refugees and asylum seekers. The Standing Committee can now grant refugee status, or again reject the claim, or send it back to the RSDO for further interviews. If the Standing Committee rejects the claim, then the asylum seeker is given a Final Rejection. As with the final rejection that can be given by the RAASA, the only way to challenge this is to seek a judicial review, for which the asylum seeker will need the assistance of a lawyer or pro bono law clinic. Below is a diagram or flow chart showing the basic asylum application process. This is a very basic flow chart and it must be understood that many of the processes take a long

time and so from first application to final decision can, and often does, take years.

SOUTH AFRICA'S ASYLUM APPLICATION PROCESS, IN BRIEF



Grounds for Refugee Status

The grounds for refugee status in South African law can be found in section 3 of the Refugees Act. Section 3(a) outlines the grounds related to personal persecution. Section 3(b) provides the grounds related to war in one's country of origin. Section 3(c) provides that the dependant of a refugee

can also be granted refugee status. Sections 3(a) and (b) have been quoted in full below, with a brief explanation of each.

Section 3

Subject to Chapter 3, a person qualifies for refugee status for the purposes of this Act if that person—

(a) owing to a well-founded fear of being persecuted by reason of his or her race, gender, tribe, religion, nationality, political opinion, or membership of a particular social group, is outside the country of his or her nationality and is unable or unwilling to avail himself or herself of the protection of that country, or, not having a nationality, and being outside the country of his or her former habitual residence is unable or, owing to such fear, unwilling to return to it; or

(b) owing to external aggression, occupation, foreign domination, or events disturbing public order in either a part of the whole of his or her country of origin or nationality, is compelled to leave his or her place of habitual residence to seek refuge in another place outside his or her country of origin or nationality;

Thus, the grounds for refugee status in South Africa relate to either personal persecution based on one of the grounds listed in section 3(a) of the Refugees Act, where the person is unable to get assistance from their government to address the persecution. This could be because their government is the agent of the persecution, or is simply not in a position to assist the individual. Similarly, someone can seek asylum and should be granted refuge, if they have fled a war-like situation in their home country, and are forced to seek refuge outside of their home country. Section 3(b) was specifically included in the 1998 Refugees Act because it is included in the Organization of African Unity (OAU) Refugee Convention, which sought to address the specific situation of refugees in Africa. It is not a ground that was included in the original 1951 UN Refugee Convention.

Rights, Duties, and Responsibilities of Refugees and Asylum Seekers in South Africa

Being an asylum seeker or refugee in South Africa comes with certain rights and responsibilities, as well as entitlements owed to the asylum seeker/refugee by the South African state. Asylum seekers are entitled to an asylum seeker document, and to the renewal of that document from time to time. Refugees are entitled to a refugee recognition document, a refugee identity document, as well as to apply for and receive a refugee travel document. All refugees and asylum seekers are entitled to the rights in South Africa's Bill of Rights, except for those specifically promised to citizens only, such as the right to vote. Asylum seekers and refugees also have responsibilities under South African law, such as obeying and abiding by all South African laws, renewing their documents when prescribed, and providing certain details to the Refugee Reception Officer (such as your residential address).

Refugees are entitled to apply for social assistance grants in South Africa and provided they meet the ordinary criteria, they are entitled to receive those grants. Asylum seekers have been included as eligible to apply for the COVID-19 Social Relief of Distress grant, but this is not the same as the grants available in times outside of a National State of Disaster. Asylum seekers and refugees are entitled to employment-related benefits and insurance, such as UIF and compensation for occupational injuries. They are also entitled to apply for learners and drivers licenses, as well as for bank accounts. Asylum seekers are not permitted to leave South Africa, as this will cease their asylum claim. Refugees would have to first obtain a refugee travel document to leave South Africa.

All persons, including asylum seekers and refugees, have the right to basic education. However, according to the amendments to the Refugees Act, any asylum seeker who wishes to undertake study beyond basic education must fill out a specific form to do so. This must be signed by the appropriate person at the educational institution and submitted to the

RRO. The endorsement on an asylum seeker visa, allowing the holder to study, may be provided once the appropriate documents have been submitted to the RRO.

Similarly, if an asylum seeker wishes to work in South Africa, they will now (under the amendments) have to seek an endorsement with permission to work on their asylum seeker document. This was not the case before the amendments came into effect. To get the permission to work, the asylum seeker would have to fill out the appropriate form at the RRO and submit it together with other relevant documents, such as an assessment showing whether they have the means to sustain themselves. Once the endorsement of the right to work is provided, the asylum seeker has to find a job within six months, failing which the endorsement is removed. Once a job has been found, the asylum seeker's employer will have to sign a letter proving that they have offered employment to the individual, this will allow the asylum seeker visa to continue to be endorsed with the right to work.

NOTE: This system regarding the right to work and endorsements, as well as the one above regarding education, have not yet been implemented at Refugee Reception Offices. At the time of writing, all asylum documents still were automatically endorsed with the right to work or study.

Refugees are also entitled to not be returned to their country of origin if they are likely to face harm in that country. This is known as the principle of *non-refoulement*. The principle of *non-refoulement* is an internationally recognized principle and essentially means that the South African government cannot deport someone if there exists a reasonable risk of harm' should that person be returned to their country of origin. For more information on immigration detention and deportation in South Africa, the

Lawyers for Human Rights Practitioners Guide to Immigration Detention in South Africa.¹⁸

Other Types of Immigration Status: The Immigration Act

There are many other types of immigration status available to non-citizens wishing to come to South Africa. However, many are difficult to obtain and there are specific requirements. There are three types of Special Dispensation Visa programmes that the South African government has made in the past, and these have been described in more detail below. They particularly apply to former refugees from Angola, as well as to Zimbabweans and persons from Lesotho. The provision in the Immigration Act that allows for the creation of a special dispensation is section 31(2)(b).

The Immigration Act (13 of 2002) describes the types of ‘temporary’ and ‘permanent’ stays that a person can have to be in South Africa with a recognized immigration visa or permit. The Immigration Act also states that non-citizens can only enter South Africa legally if they have been issued with the appropriate temporary residence visa and that they fulfil the conditions of the various listed categories provided for temporary visas. An example of a type of temporary visa is a study visa or a tourism visa. In the table below, the other types of visas available in terms of the Immigration Act are very briefly described. In general, they can be understood as being divided into two very broad categories, one category which allows the visa holder to work while in South Africa, and the other category which does not. There is also one further type of temporary visa that is issued in terms of the Immigration Act but which relates to asylum seekers, that is the Asylum Transit Visa. This is supposed to be issued to someone at the port of entry or border post when they indicate that the reason that they are entering South Africa is that they want to seek asylum. Section 10 of the Immigration Act states:

¹⁸ Available at: <https://www.lhr.org.za/lhr-resources/a-practitioners-guide-to-immigration-detention-in-south-africa>

- (1) Upon *admission*, a *foreigner* may enter and sojourn in the *Republic* only if in possession of a *temporary residence*.
- (2) Subject to *this Act*, upon *application* and upon *prescribed* examination at the *port of entry*, one of the *temporary residences* set out in *sections 11 to 23* may be issued to a *foreigner*.
- (3) If issued outside of the *Republic*, a *temporary residence* is deemed to be of force only after an admission.
- (4) A *temporary residence* is to be issued on condition that the holder is not or does not become a prohibited or an undesirable person.
- (5) For good cause, as *prescribed*, the *Department* may attach reasonable individual terms and conditions to a *temporary residence*.
- (6) Subject to *this Act*, a *foreigner* may change his or her *status* while in the *Republic* (italics in the original).

In simple terms, what the above means is that when someone who is not a South African citizen comes to South Africa, they must have a visa already or they can sometimes apply when they arrive. The visa only becomes active or 'in force' when the person is in South Africa, and there may be conditions attached – such as that you may or may not work while in the country. Some visa types can be changed while the person is in the country, rather than them having to leave and apply from their home country. Most of the visa application and processing services for immigration visas are outsourced to a company called Visa Facilitation Services. This is where individuals have to go to attend to visa matters whether inside or outside South Africa. It is best to consult their website for more information on specific requirements for each visa, the costs, and how to book the relevant appointments.¹⁹

¹⁹ To visit the VFS South Africa website, see: <https://www.vfsglobal.com/dha/southafrica>

| Table describing the temporary visa types available in terms of the Immigration Act | | |
|---|------------------|---|
| Section of Immigration Act | Type of Visa | What is the visa holder entitled to? |
| Section 11 | Visitor's permit | <p>There are different types of visitor visas. Usually, this type of visa allows someone to come into South Africa for not more than three months but can be renewed on application.</p> <p>The visa holder is <u>not permitted to work</u>.</p> <p>However, you can apply for a visitor's visa that is longer than three months, for other reasons such as for the purposes of academic sabbaticals, volunteering, or research.</p> <p>This type of visa can be a single entry visa or a multiple entry visa.</p> <p>DHA can sometimes require an applicant for a visitor's visa to show that they have the financial means to sustain themselves without work during the time they will be in SA.</p> <p>If one applies for a visitor's visa that is longer than three months, such as an 11(6) visa which is meant for spouses of a citizen or permanent resident, then it is possible under certain circumstances to get the visa endorsed with permission to work while in South Africa.</p> |

| Table describing the temporary visa types available in terms of the Immigration Act | | |
|--|---------------------|--|
| Section of Immigration Act | Type of Visa | What is the visa holder entitled to? |
| Section 12 | Diplomatic permit | <p>This type of visa is issued to diplomats from a foreign state. It can be issued by either the Department of Home Affairs or the Department of International Relations and Cooperation (DIRCO).</p> <p>It can also be issued to immediate family members of diplomats.</p> <p>Diplomatic permit holders cannot work in South Africa, other than the work that they do as a diplomat. However, for the spouses, there is a way that they can apply for permission to work, in which case they would be issued with an additional work permit.</p> |
| Section 13 | Study permit | <p>This allows the holder to study in South Africa. However, to obtain this visa, the applicant must be able to fulfil certain requirements, including such things as an offer of placement, medical insurance, and that tuition fees will be paid, and that they have sufficient funds to support themselves while in South Africa.</p> <p> Holders of study permits are not permitted to undertake full-time work, but if they are attending an institution of higher learning</p> |

| Table describing the temporary visa types available in terms of the Immigration Act | | |
|--|---------------------|--|
| Section of Immigration Act | Type of Visa | What is the visa holder entitled to? |
| | | (university) they are permitted to undertake part-time work. |
| Section 14 | Treaty permit | This is a type of visa issued to someone who is undertaking activities in terms of an international agreement. This could be a person who is working for a UN-related agency. The requirements, including work-related ones, are prescribed in Regulations. |
| Section 15 | Business permit | This type of visa is issued to someone who wants to start a business in South Africa. This could be a business that they will be employed in and members of their immediate family. However, to get this type of permit, the applicant must be able to show that they have a certain amount of investment capital that they will contribute to the start-up of the business. The amount changes from time to time and is prescribed by the Minister in regulations. The applicant also has to show additional things, such as compliance certificates, the intended book value of the business, registration with SARS, etc. |

| Table describing the temporary visa types available in terms of the Immigration Act | | |
|--|--------------------------|---|
| Section of Immigration Act | Type of Visa | What is the visa holder entitled to? |
| Section 16 | Crew permit | This type of permit is issued to the crew or owner of a ship or aircraft. It may restrict the individuals to a certain area (for example the harbour area), and it does not permit the holder to work in South Africa generally. |
| Section 17 | Medical treatment permit | This visa is issued to someone who is intending to receive medical treatment in South Africa for a period longer than three months. The holder or applicant would need to show that they can afford treatment costs, and may have to show details of the institution where the treatment will take place (including that it is in good standing with the Department). |
| Section 18 | Relative's permit | This is issued to the immediate family member of a citizen, or a resident in South Africa, as long as that immediate family member or resident provides proof that they can provide for the person financially. The holder of a relative's permit is not allowed to work in South Africa. |

| Table describing the temporary visa types available in terms of the Immigration Act | | |
|--|---------------------|--|
| Section of Immigration Act | Type of Visa | What is the visa holder entitled to? |
| Section 19 | Work permit | <p>There are different sub-categories of work permits that are issued.</p> <ul style="list-style-type: none"> - <u>A quota permit</u> relates to a specific category of workers prescribed (in the Government Gazette) by the Department of Trade and Industry. - <u>A general work permit</u> can be issued, but the prospective employer has to fulfil certain requirements including showing that no South African could be hired for the position advertised. Certificates showing the same must be obtained from the Department of Labour. In practice, a general work permit is very seldom issued. - <u>Critical skills visas</u> are also issued in terms of section 19. These used to be called exceptional skills visas. This can be issued to people who have skills for certain scarce skilled areas, which are published by the Department in the Government Gazette from time to time. Family members can also obtain visas, once a critical skills visa has been issued, and if applied correctly this can include permission to work. |

| Table describing the temporary visa types available in terms of the Immigration Act | | |
|--|-----------------------|---|
| Section of Immigration Act | Type of Visa | What is the visa holder entitled to? |
| | | <ul style="list-style-type: none"> - <u>An intra-company transfer visa</u> can be issued for employees of international companies who are employed abroad, but where the company wants to send the employee to their South Africa offices for a period of less than two years. There are further requirements that have to be fulfilled by the company to obtain this visa, including financial guarantees. |
| Section 20 | Retired person permit | <p>A retired person visa is issued to an individual wishing to retire in South Africa, provided they can show proof that they have the funds to support themselves. There are various ways in which this proof can be shown, including a minimum prescribed net worth, or proof of a right to a pension, etc. Persons with this visa can reside in South Africa on a full-time basis, or seasonally. The visa is issued for four years at a time. They are permitted to conduct some work, but it is subject to specific circumstances.</p> |

| Table describing the temporary visa types available in terms of the Immigration Act | | |
|--|---------------------|--|
| Section of Immigration Act | Type of Visa | What is the visa holder entitled to? |
| Section 21 | Corporate permit | This type of visa is issued to a company/corporate applicant to employ non-citizens. The Department of Employment and Labour must be consulted, as well as Trade and Industry. They can prescribe the maximum amount of employees, as well as other restrictions. |
| Section 22 | Exchange permit | Exchange visas are issued to persons participating in exchange programmes organized by any organ of the State. The person holding this type of visa must be under 25 years of age and have an offer of work from an employer certifying that they are responsible for the person concerned. The individual is not permitted to conduct any other type of work. |
| Section 23 | Asylum Transit Visa | This is issued to persons who indicate when they arrive at South Africa's borders that they wish to apply for asylum in South Africa. It is issued for a five-day period, and in that time the asylum seeker must present themselves at a Refugee Reception Office to apply for asylum. |

| Table describing the temporary visa types available in terms of the Immigration Act | | |
|--|-------------------------------|---|
| Section of Immigration Act | Type of Visa | What is the visa holder entitled to? |
| Section 24 | Cross-border and transit pass | This is provided to citizens of certain countries that share borders with South Africa. Usually, it is issued to someone who does not hold a passport but is making use of one of South Africa's borders periodically. An example could be for teachers or children whose closest school is actually on the South African side of the border and so would need to cross the border daily to attend school. Another type of transit pass is one issued when someone is travelling through South Africa to get to another country. |

In addition to the temporary residence types listed in the table above, there is also permanent residence. This is when a person applies to stay in South Africa permanently. A Permanent Residency Permit is only granted if the applicant meets certain requirements, such as length of stay and what other type of visa they had been in South Africa on previously. For example, a person could apply for permanent residence if they have been residing in South Africa for a minimum of five years, and have been on a spousal visa or a critical skills visa. Various documentation and proof would need to be submitted, including police clearance certificates and all other documents relating to the basis for which one is applying for Permanent

Residency. If granted, the holder is then able to enter and leave South Africa without the need for any other type of visa.

For refugees specifically, the road to obtaining a Permanent Residency is very difficult and can take many years. One first has to be a recognised refugee for more than 10 years (previously it was 5 years under the old Act), then you have to obtain a letter from the Standing Committee certifying that you will remain a refugee indefinitely in terms of section 27(c) of the Refugees Act. Only then can you apply for Permanent Residence.

Special Dispensation Permits

There are three types of special dispensation permits that have been issued by the South African government. They are issued to groups, in terms of the Immigration Act. There is potential for the government to use the provisions in the Immigration Act to issue more such permits, which is also something that is mentioned in the DHA's White Paper on International Migration and in the National Development Plan. This would be particularly useful to regularise the stay of many low-skilled migrants in South Africa from the Southern African region. The three types of special dispensation permits currently in existence are the Angolan Special Permit which will be the Angolan Exemption Permit, the Lesotho Exemption Permit, and the Zimbabwe Exemption Permit. All of these are due to expire on 31 December 2021. However, by 4 October 2021, the government had only announced a new permit for Angolans, not for the other two groups. The three types are described more below.

Angolan Cessation Permit/ Angolan Special Permit/ Angolan Exemption Permit

The Angolan Special Permit was issued to former refugees originally from Angola. It is a closed group of about 2 000 people. They had been recognised refugees in SA for many years, and then when the cessation of

Angolan refugee status took place they were simply told to return to Angola. This small number did not want to as understandably as they had built a life in South Africa over decades. After some litigation the Angolan Cessation Permit was created, which has then become the Angolan Special Permit. The permit itself states clearly that the holder is entitled to all the same rights as a permanent resident. However, unlike a permanent resident, there is an expiry date for the permit. In August 2021, the DHA announced that former refugees from Angola could apply for an Angolan Exemption Permit, which is likely to be like permanent residence.²⁰ Those who can apply include those who did not initially receive either of the previous two permits but who have been in South Africa and can show their previous refugee or asylum documents from before the cessation.

Lesotho Exemption Permit

The Lesotho Exemption Permit was created in recognition of the regular movement of people from Lesotho to SA and the need to regularise people's time in SA through a visa option. It is different from the Angolan one, as the group does not relate to persons who had fled their country to seek protection. It is more similar to the Zimbabwean permit, described below. The permit stipulates that it is short-term, and the holder does not acquire the right to make an application for permanent residence after the permit expires.

Zimbabwean Exemption Permit

The Zimbabwe Exemption Permit (**ZEP**) has been through many iterations, such as the ZSP – Zimbabwean Special Permit – in 2014. In April 2009, the South African Cabinet approved the “Dispensation of Zimbabweans Project (**DZP**)”. This was after a significant number of Zimbabweans came to South Africa from 2008/9 onwards as a result of the crisis in Zimbabwe and also

²⁰ For more information, see: <http://www.dha.gov.za/index.php/statements-speeches/1467-the-department-of-home-affairs-invites-qualifying-holders-of-angolan-special-dispensation-permits-to-apply-for-the-angolan-exemption-permit>

the impacts of the global financial crisis. Many made use of asylum applications to regularise their stay in and get documents allowing them to work in South Africa. However, it is likely that many of those applications may not have fallen under the grounds for refugee status in section 3 of the Refugees Act. The long processing times in the asylum system meant that this was one way to regularise your immigration status in South Africa. This should not detract from the fact that many may also have had legitimate asylum claims. According to the DHA, approximately 295 000 Zimbabweans applied for the initial DZP, and 245 000 were successfully issued with the permit. It was a special permit that gave all the rights of permanent residence except for the right to apply for permanent residence as a result of that visa. Usually, if someone is on the same type of immigration visa for a set period, they can apply for PR, but certain visas are excluded – study visas, and special dispensation permits. When those initial permits began to expire, around 2014, a new special dispensation permit was created, the Zimbabwean Special Permit (**ZSP**), valid for three years. In 2017, the [Minister stated](#) that the total number of ZSPs issued was 197 941.

In September 2017, when the ZSP was due to expire by 31 Dec 2017, the Minister announced the Zimbabwean Exemption Permit (**ZEP**) – this was the new special dispensation permit and if an individual had held a ZSP then they were entitled to apply for the ZEP. Some people did not and so the number provided in September 2017 is likely to have reduced in respect of ZEP holders. The ZEP expires on 31 December 2021, and it also states that the holder is expressly not permitted to apply for permanent residence in South Africa. These permits all allowed the holders to work, study, and conduct business in South Africa. At the time of writing, a court case had been launched to try asking the court to declare that ZEP holders should be entitled to permanent residence. No further information had been announced by the South African government concerning the renewal of the ZEPs, which expire on 31 December 2021.

International Laws, Instruments, Policies & Mechanisms

The table below provides more information about the international laws that relate to human rights and migration, which South Africa is a signatory to, and so which apply in South Africa. The first column gives the name of the law, instrument, policy, or special mechanism; and the second column provides a brief introductory explanation of it together with how it may relate to immigration in South Africa. This is a list that is designed to be a living document, which can be added to over time as more become available and applicable. South Africa's Constitution states that international law is applicable in South Africa when interpreting other legislation. However, as a general rule, international instruments must be domesticated through an Act of parliament for them to be comprehensively applicable and not just used in courts when there is an issue with interpreting legislation. For example, the UN Refugee Convention as well as the OAU Refugee Convention, are domesticated in South Africa through the Refugees Act.

| Table of useful international laws and mechanisms in the context of human rights and international migration | |
|---|---|
| Universal Declaration of Human Rights (UDHR) ²¹ | The UDHR was proclaimed by the UN in 1948 and is the document that sets out the common standards of human rights for all peoples and all nations. It was the first document to set out fundamental human rights to be universally protected and is seen as the inspiration for many other human rights treaties. Importantly, it enshrines the right to freedom, equality, and dignity; as well as life, liberty, and security of person. |

²¹ For more information see: <https://www.un.org/en/about-us/universal-declaration-of-human-right>

| Table of useful international laws and mechanisms in the context of human rights and international migration | |
|---|---|
| 1951 UN Refugee Convention and 1967 Protocol ²² | The UN Refugee Convention and 1967 Protocol are the key international legal documents forming the basis of refugee law worldwide. These documents define the term ‘refugee’ and also outline what rights a refugee has as well as the legal obligations that a state has to protect refugees. The most important principle of these documents is the principle of non-refoulement, which means that a refugee may not be returned to a country where they could face harm. This is domesticated in South Africa’s Refugees Act in section 2. |
| International Covenant on Economic, Social and Cultural Rights (ICESCR) ²³ | This is a multilateral treaty adopted by the UN in 1966 and signed by South Africa in 1994, but only ratified in 2015 after a targeted campaign by many civil society organizations in the country. The ratification of the document gives it a greater force in South Africa. The key rights in the ICESCR are economic, cultural, and social rights. Examples of these include the right to work; the right to an adequate standard of living including food, clothing, housing; and the right to physical and mental health; social security; a healthy environment, and education. ²⁴ The ICESCR sets out standards for all of these rights that countries |

²² For more information see: <https://www.unhcr.org/1951-refugee-convention.html>

²³ For more information see: <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

²⁴ For more information see: <https://www.cesr.org/what-are-economic-social-and-cultural-rights>

Table of useful international laws and mechanisms in the context of human rights and international migration

| | |
|--|---|
| | <p>that have ratified it are expected to meet. When ratifying the ICESCR South Africa put in a reservation in respect of the rights and standards relating to education, which means that the standards set out cannot be directly applied. However, there is significant jurisprudence in respect of education in South Africa, which is likely to ensure that despite the reservation, the South African government must still meet certain norms and standards.</p> <p>Importantly, in respect of refugees, asylum seekers, and migrants, the ICESCR applies to all persons in a country regardless of documentation and immigration status. Furthermore, the right to work in the ICESCR will be important if the South African government tries to restrict the right to work for refugees and asylum seekers, as it will likely be in contravention of its obligations in terms of this international covenant.</p> |
| <p>International Covenant on Civil and Political Rights (ICCPR)</p> | <p>This international covenant came into force in 1976 and is a key international human rights treaty providing protections for civil and political rights. Examples of these rights include the right to life; human dignity; religious freedom and privacy; freedom from torture, ill-treatment, and arbitrary detention; gender equality; the right to a fair trial; and the right to family life and family unity. South Africa ratified this treaty in 1994. Many of the rights in the ICCPR are included in South Africa’s Bill of Rights. Many are important for refugees and migrants such as the right to</p> |

| Table of useful international laws and mechanisms in the context of human rights and international migration | |
|---|--|
| | family unity as well as those relating to non-detention. These must be followed in South Africa in the applicable way as ensured by South Africa’s laws. |
| Convention Against Torture (CAT), and the Optional Protocol to the Convention Against Torture (OPCAT) ²⁵ | The Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment is the international human rights treaty aimed at preventing torture around the world. South Africa signed it in 1993, and ratified it in 1998; the OPCAT was signed in 2006, but implementation only began in 2019 with the government and various other organizations and Chapter 9 institutions such as the South African Human Rights Commission (SAHRC) beginning to put in place a National Preventative Mechanism in respect of torture. One of the ways that the CAT applies to asylum seekers and refugees is that it also reiterates the principle of non-refoulement – that individuals cannot be returned to a country where they may be in danger of facing torture. |
| Convention on the Rights of the Child (CRC) ²⁶ | The UN CRC is an international human rights treaty that specifically focuses on children and sets out their civil, political, economic, social, health, and cultural rights. This treaty defines a child as anyone below the age of 18. One of the key principles in the CRC is child participation – |

²⁵ For more information see:

<https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>

²⁶ For more information see:

<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

| Table of useful international laws and mechanisms in the context of human rights and international migration | |
|---|--|
| | <p>that is, that a child has the right and should be consulted in any matter that relates to them. This is particularly important in the area of asylum, refugee, and migration, as many children do cross borders either accompanied by their parents or family members or alone. For those that are unaccompanied or separated, there are procedures in place to assist them to return to their home country or to trace family and assist with reunification. However, where this is done, the child should be consulted to understand their needs and aspirations.</p> |
| <p>The UN Handbook (Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees)²⁷</p> | <p>This handbook is the key text and guidelines used when determining whether an asylum seekers refugee claim falls within the criteria provided in the UN Refugee Convention. It also provides information on the rights and responsibilities of refugees and asylum seekers. The Handbook was first published in 1979, re-issued in 1992, and again in 2019. It is often quoted by Refugee Status Determination Officers in their decisions in respect of asylum claims in South Africa.</p> |

²⁷ For more information see: <https://www.unhcr.org/publications/legal/5ddfcdc47/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html>

| Table of useful international laws and mechanisms in the context of human rights and international migration | |
|---|---|
| Decisions from various International Human Rights Mechanisms and Reporting Bodies and Communications from Special Rapporteurs ²⁸ | To encourage the enforcement of international law, various international human rights bodies, mechanisms, and reporting procedures have been developed. This allows civil society in a specific country to communicate directly with a part of the United Nations and to provide information about a specific issue. For example, the UN Committee on the Rights of the Child can receive communications and reports regarding the implementation, or violation, of the UN CRC. Similarly, there are periodic country reports that are submitted for many of the international treaties, and civil society organizations often use these reports to highlight areas where there are issues or barriers. For some of the treaties, some Special Rapporteurs are appointed, and who can go to a country to investigate or monitor the issue that they have a mandate for, they would then be expected to provide a report to the relevant part of the UN on that country visit. |

Regional and Sub-Regional Laws, Instruments, Policies & Forums

The table below, as with the table in the section above, provides an introductory list of regional and sub-regional laws, instruments, and policies that apply to South Africa and link or may link to immigration in

²⁸ For more on the UN Human Rights Bodies, see: <https://www.ohchr.org/En/HRBodies/Pages/HumanRightsBodies.aspx>

South Africa. The first column provides the name of the regional law or instrument, and the right-hand column provides an introductory explanation. This is a list that is designed to be a living document, which can be added to over time as more become available and applicable.

| Table of useful African regional laws, conventions, and mechanisms in the context of human rights and international migration | |
|--|---|
| African Charter on Human and Peoples' Rights (ACHPR) ²⁹ | The ACHPR is an international human rights instrument intended to protect and promote human rights in Africa. It was adopted by the Organization for African Unity (OAU) which later became the African Union (AU). It is the key document in respect of the African Human Rights System, and provides not only for basic human rights applicable to all African states, but also a mechanism tasked with oversight of adherence to the Charter. That is the African Commission on Human and Peoples' Rights. Later on, the African Court on Human and Peoples' Rights was also developed and set up. |
| 1969 OAU Convention Governing the Specific Aspects of the Refugee Problems in Africa ³⁰ | The OAU Refugees Convention was drafted after the UN Convention. The UN Convention was drafted shortly after World War 2, and in many respects, the definition and approach to refugees was a result of the context just after WWII. As a result, it did not speak to issues that were arising on the African continent, particularly in the context of independence struggles and the end of |

²⁹ For more information, see: <https://www.achpr.org/legalinstruments/detail?id=49>

³⁰ For more information, see: <https://au.int/en/treaties/oau-convention-governing-specific-aspects-refugee-problems-africa>

| Table of useful African regional laws, conventions, and mechanisms in the context of human rights and international migration | |
|--|---|
| | <p>colonialism in many countries across the continent. The OAU Refugees Convention provides for that context, and also extended the definition of a refugee from that of someone fleeing personal persecution, to also include someone fleeing war or grave disturbances to the public order in either whole or part of their country of origin. This is known as the extended definition and is domesticated in South Africa through section 3(b) of our Refugees Act.</p> |
| <p>African Charter on the Rights and Welfare of the Child (ACRWC)³¹</p> | <p>The ACRWC was adopted by the OAU in 1990 and entered into force in 1999. Similar to the UN CRC, the ACRWC sets out the rights and defines universal principles and norms for the status of children. It provides for greater contextualization of children’s rights in Africa. In addition, the ACRWC provides for the creation of the African Committee of Experts on the Rights and Welfare of the Child, which is tasked with promoting and protecting the rights established by the Charter. This Committee can also hear complaints and receive communications about specific issues within a specific state.</p> |
| <p>Protocol to the African Charter on Human and Peoples’ Rights on</p> | <p>This Protocol is also known as the Maputo Protocol and guarantees comprehensive rights to women, including the right to participate in political processes, and rights to social and</p> |

³¹ For more information, see: <https://au.int/en/treaties/african-charter-rights-and-welfare-child>

| Table of useful African regional laws, conventions, and mechanisms in the context of human rights and international migration | |
|--|---|
| the Rights of Women in Africa ³² | political equality. One important aspect of this Protocol is the right to bodily autonomy, and specifically to reproductive health decisions and an end to female genital mutilation (FGM). For some refugee women, FGM is a reason for them fleeing their country of origin, and in this regard, adherence to the Maputo Protocol is important when assessing the refugee claim. |
| Communications and Decisions from both the African Commission on Human and Peoples’ Rights as well as the African Court on Human and Peoples’ Rights, and from the Regional Human Rights Mechanisms and Special Rapporteurs. | Like the international human rights mechanisms, the African Human Rights System also has various similar mechanisms to encourage the enforcement of various African human rights treaties and decisions by the African Commission on Human and Peoples Rights as well as the African Court on Human and Peoples Rights. Civil society organizations can make reports to these mechanisms. The key one in respect of migrants, asylum seekers, and refugees is the African Union Special Rapporteur on Refugees, Asylum Seekers, Migrants, and Internally Displaced Persons. ³³ Another important human rights body in the African context is the African Committee of Experts on the Rights and Welfare of the Child, which has been described above in the section on the African Charter on the Rights and Welfare of the Child. |

³² For more information, see: <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

³³ For more information, see: <https://www.achpr.org/specialmechanisms/detail?id=5>

| Table of useful African regional laws, conventions, and mechanisms in the context of human rights and international migration | |
|--|---|
| Pan African Parliament ³⁴ | The Pan African Parliament is a legislative body set up by the African Union. It sits in South Africa and exercises oversight as well as having advisory and consultative powers. It is tasked with implementing the policies and objectives of the AU. Importantly, there is a yearly Pan African Parliament CSO Forum, which is a space where civil society organizations can come together to speak about issues and topics that they wish the Pan African Parliament to take notice of, in 2019 the key focus was on refugees and migrants. |
| African Peer Review Mechanism (APRM) ³⁵ | The APRM is a space where member states of the AU engage in self-monitoring on amongst others, human rights issues. Four thematic areas are looked at: democracy and political governance; economic governance and management; corporate governance; and broad-based sustainable socio-economic development. Civil society organizations can monitor the self-assessments made by states at the APRM, by looking at the National Programmes of Action that comes out of the APRM process. |

³⁴ For more information, see: <https://au.int/en/pap>

³⁵ For more information, see: <https://www.aprm-au.org>

| Table of useful African regional laws, conventions, and mechanisms in the context of human rights and international migration | |
|--|--|
| Migration Dialogue for Southern Africa (MiDSA) ³⁶ | MiDSA was established in 2000 with the assistance of the International Organization for Migration and creates a framework for regular migration dialogue amongst SADC states. This is aimed at improving inter-state coordination, and migration governance, particularly on issues such as border governance and irregular migration, as well as migrant rights, migrant health, and migration and development. MiDSA is a high-level space, that can be used in respect of high-level advocacy on specific issues. |

Domestic Laws & Policies

Some many laws and policies apply to people on the move in South Africa. Together, they form a framework of laws some of which would apply altogether, and others that only apply in specific instances. The three most important ones that apply are the South African Constitution (and Bill of Rights), the Immigration Act, and the Refugees Act. These three are described briefly in the paragraphs below. Then, in the table that follows, other legislation is provided that might apply in specific circumstances or because of a specific focus.

The Constitution

South Africa’s Constitution is its supreme law and includes the Bill of Rights, which outlines all the rights that people in South Africa – whether a citizen or not – are promised. There is a small set of rights that are only for citizens, such as the right to vote, but most of the rights in the Bill of

³⁶ For more information, see: <https://www.iom.int/node/103051>

Rights, are for any person in South Africa. Legislation has to give effect to those rights, and so when wanting to access a right, it is essential to also look at the piece of legislation that may apply which gives effect to that right, such as the SA Schools Act, which provides for how the right to education is realised. Or the SA Social Assistance Act, which provides for the realisation of social assistance in section 27. More information about domestic legislation in South Africa that may apply in the context of international migration is provided in the paragraphs below as well as in the table below. In addition to this, the courts have often played a key role in interpreting legislation, and so some key rights-enabling judgments have also been summarized below.

The Immigration Act

The Immigration Act has been described in detail in the section on immigration above. This is the key piece of legislation used to govern the movement of people into and out of South Africa, as well as the key legislation governing the conditions under which someone who is not a South African citizen may be present in South Africa. The one aspect of the Immigration Act that was not dealt with in the section above was how the Act deals with detention and deportation for immigration-related purposes. For more information on immigration detention and deportation in South Africa, the Lawyers for Human Rights Practitioners Guide to Immigration Detention in South Africa.³⁷

The Refugees Act

The Refugees Act, as well as the situation for refugees and asylum seekers in South Africa, has been described in detail in the section on refugees and asylum seekers above. The Refugees Act is the key piece of domestic legislation governing how someone can claim asylum in South Africa, the

³⁷ Available at: <https://www.lhr.org.za/lhr-resources/a-practitioners-guide-to-immigration-detention-in-south-africa>

grounds upon which they may be granted asylum, as well as the rights, duties, and entitlements of asylum seekers and refugees in South Africa.

Additional Domestic Legislation in South Africa

Additional domestic legislation that may be applicable in the context of international migration in South Africa, and which may sometimes apply to non-citizens in the country, is provided and summarised in the table below.

| Table of South African domestic legislation that is applicable in certain circumstances in the context of international migration | | |
|--|---|---|
| Name of legislation | Brief description | When it might apply |
| The Citizenship Act | This Act provides for who is considered a citizen of South Africa, as well as the gaining of citizenship and the loss of citizenship. | The key contexts in which this Act may apply for migrants and asylum seekers/refugees are in respect of stateless persons, as well as in respect of the children of refugees, migrants, or asylum seekers who were born in South Africa and have lived here until they reach 18. In those circumstances the Act allows them to apply for citizenship. Seeking legal advice in either of these circumstances is recommended. |

Table of South African domestic legislation that is applicable in certain circumstances in the context of international migration

| Name of legislation | Brief description | When it might apply |
|---------------------------------------|--|--|
| The Birth and Deaths Registration Act | This Act provides for the registering of a birth or a death in South Africa. | <p>Migrants, asylum seekers, and refugees who either give birth to a child in South Africa or those who may die while here, would have to register the birth or the death with the Department of Home Affairs. For registration of a death, proof of identity of the deceased is needed, often in the form of a passport or asylum/refugee document.</p> <p>In respect of births being registered, at present, Home Affairs will only register a birth if the parents can show valid immigration documentation for South Africa – such as a visa, asylum seeker, or refugee document. A hand-written birth certificate is provided, without an ID number. In the case of migrants who have an immigration visa, it is important that they also register the birth with their consulate or embassy, and then obtain the relevant family member visa for the child</p> |

| Table of South African domestic legislation that is applicable in certain circumstances in the context of international migration | | |
|--|--|--|
| Name of legislation | Brief description | When it might apply |
| | | to lawfully be in South Africa. For refugees and asylum seekers, they must register the birth at the Refugee Office as well, and undergo the family joining process so that their child is issued with refugee or asylum documentation. |
| The Children's Act | This Act applies to all children in South Africa, regardless of country of origin. | For migrants, refugees and asylum seekers, the key context where the Children's Act applies is usually in respect of unaccompanied or separated children who may need to be placed in the care and protection system in the country through a Children's Court. |
| The Border Management Authority Act | This Act was recently passed, it applies to the border areas of South Africa, and establishes a single border authority. | The key context for this Act is that of South Africa's borders, where the Act envisages one agency to manage the borders. Prior to the enforcement of this Act, multiple agencies were managing different aspects at South Africa's borders, such as the Defence Force which was |

| Table of South African domestic legislation that is applicable in certain circumstances in the context of international migration | | |
|--|--|---|
| Name of legislation | Brief description | When it might apply |
| | | tasked with managing security, Trade and Industry tasked with managing customs, and Immigration tasked with managing the movement of people. This Act envisages one authority that will take on all duties and tasks at South Africa's borders. It also represents a step towards further securitization of migration in South Africa. |
| The Labour Relations Act The Unemployment Insurance Act The Basic Conditions of Employment Act | All of these Acts provide for labour rights in South Africa. | Labour rights and the right to fair labour practices apply to all persons working in the country, including migrants and asylum seekers/refugees. An employer must register employees who work over a certain number of hours a month, for unemployment benefits (UIF). These can be claimed if someone becomes unemployed or goes on maternity leave. There are often difficulties for asylum seekers and refugees in claiming these benefits, and so may need |

Table of South African domestic legislation that is applicable in certain circumstances in the context of international migration

| Name of legislation | Brief description | When it might apply |
|---|--|---|
| | | further assistance or a referral to an organization that can assist. |
| Promotion of Administrative Justice Act | This Act provides for the right to fair administrative procedures and decisions. | The key context in which this Act applies to migrants, refugees, and asylum seekers in South Africa is in respect of administrative decisions that impact them. Examples of these are administrative decisions regarding someone's refugee or immigration status. If an asylum seeker fails in their asylum claim, for example, they have the right to seek a judicial review if they believe that the process was not administratively fair. The judicial review is in terms of the Promotion of Administrative Justice Act. |

Court cases

There is a fair amount of litigation that has taken place in South Africa to further the rights of refugees and migrants in the context of refugee protection and international migration. This section briefly looks at some of the significant ones, and what their impact has been. These can be grouped into the following categories detention and deportation; access to the asylum system; citizenship; the right to work and study for asylum seekers; the right to go to school for undocumented learners; the right to social grants, and unemployment benefits; and birth registration.

Children

In terms of **access to education**, the *Phakamisa* judgment (2019) ensured that undocumented learners – whether South African citizens or not – must be allowed to register at a school and must have access to education. For migrants and asylum seekers, what this means in practice is that if a child does not have documentation showing their identity, the parents can depose to an affidavit confirming the child’s identity and age and the school must accept the affidavit to register the child. The issue of **citizenship** has been litigated on for many years. In the *Miriam Ali* case, it was confirmed that if a child is born in South Africa to parents who are not SA citizens or permanent residents, and if that child grows up in the country until they reach 18 years, they can apply for citizenship and provided their birth was registered they should be granted it. The DHA is supposed to provide the appropriate application forms so that such a citizenship application can be made. At the time of writing (last few months of 2021) this had not yet taken place, despite the court deadline having passed years ago. Practically speaking, what this means is that if an individual thinks they may qualify to apply for citizenship, they should approach an organization such as Lawyers for Human Rights, UCT refugee rights unit, or Scalabrini Centre, for assistance. On the **right to birth registration**, litigation recently decided by the Constitutional Court in the *Naki* judgment (2021) provides for fathers to register the birth of a child if

a mother is unable to do so. The way that this impacts migrants and asylum seekers is that the DHA refuses to register the birth of a child if the mother is undocumented (or has expired documentation). Thus, this judgment would be able to ensure that a father with documentation that is not expired, or who is a South African citizen, would be able to register the birth of the child where the mother is unable to do so because of her documentation. This is a very recent judgment and so it is unclear how the DHA is implementing it yet.

Social Protection and Social Insurance

There are three notable pieces of litigation in respect of social protection and social insurance. In respect of social protection, this is social grants. Only South African citizens were entitled to apply for and **access social grants**. However, this changed because of the *Khosa* case, where the court ruled that permanent residents should have access to social grants. In adhering to this litigation and changing the laws to reflect the judgment it was made possible that recognised refugees would also have access to social grants. This means that if a permanent resident or recognised refugee meets the criteria prescribed by the Department of Social Development (**DSD**) and implemented by SASSA, then they are entitled to access one or more of the social grants provided by the SA government. These range from old age pension grants to child-care support grants and others.

During the COVID-19 pandemic, the DSD introduced a special emergency grant, called the COVID-19 Social Relief of Distress (**SRD**) grant. This was announced as a measure to support those who were most severely impacted by the lockdown and not being able to work. However, the government only made the grant available to people who could normally apply for grants in normal times. That is citizens, permanent residents, and recognised refugees. The Scalabrini Centre of Cape Town urgently litigated the matter and ensured that that particular grant, and in emergency circumstances, was available to asylum seekers and special permit holders

as well. The court agreed with the Scalabrini Centre's arguments that limiting the eligibility for the grant was unconstitutional.

In respect of **social insurance**, this applies to **unemployment benefits**. These should be available to any person who has been employed in South Africa if they become unemployed (not through resignation). However, in practice, although asylum seekers were expected to pay UIF contributions they were unable to claim unemployment benefits. The barrier was that the Department of Labour refused to accept asylum seeker documents as valid proof of identification. In the *Musanga* matter, the court found this practice by the Department of Labour to be unconstitutional. The Department of Labour has since published regulations to ensure that asylum seeker documents are recognised proof of identity documents. In addition to this, there has been further litigation indicating that even where an employer has not registered someone for UIF benefits and so they have not paid UIF contributions, the employee should still be able to claim the benefits as it was not their fault their employer didn't register them (registration is required by law). This may have a positive outcome for persons without immigration documentation who are often denied labour protections. However, in practice, it is less likely that such a person would come forward to claim as they risk being detected as being in the country without regularized immigration status.

Asylum Seekers Access to the Asylum System, Right to Work and Study, and Deportation Protections

While accessing a centre such as VFS in order to try and obtain a visa is managed in quite an orderly manner; the same is often not the case for refugee reception offices (**RRO**). As has been indicated, there is only a handful of RROs across the country. To access and enjoy the right to asylum, an asylum seeker must be able to access an RRO to apply for asylum. There are many examples, in various provinces, where this right has been restricted through unlawful practices by the Department of Home Affairs, such as limiting the number of people who could enter an

RRO per day, or security officials turning people away, or simply issuing people with appointment slips rather than an asylum seeker document. All of these practices have been litigated and found to be unlawful. Thus, the courts have ensured that there are fewer barriers present in **accessing the asylum system** in South Africa. This also includes someone trying to access it by claiming asylum while in transit through South Africa at the airport.

Once one has been provided with asylum documentation, because South Africa has an urban integration model for asylum, the individual asylum seeker is expected to be self-sufficient. However, in practice, this means that the asylum seeker had to be granted the **right to work or study** while awaiting the adjudication of their claim. Previously, whereas refugees were granted these rights, asylum seekers were not. However, this was taken to court and in the *Wachenuka* case, the court stated that the right to work and be a productive member of society is intrinsically linked to one's dignity. Thus, in that case, the right to work and study while awaiting the adjudication of an asylum claim was ensured by the courts. Unfortunately, the Refugees Amendment Act, 2017, which came into effect on 1 January 2020, undermines this win by prescribing a complex process that an asylum seeker will have to follow to be granted permission to work while awaiting adjudication of their claim. Although to date this is not yet implemented, it will be a significant backtrack on the rights of asylum seekers in South Africa and undermines international refugee law.

Various litigation has taken place to ensure that South Africa's detention and deportation procedures are compliant with human rights standards, and also to ensure that the South African government does not undermine or contravene the principle of non-refoulement by deporting an individual back to a country where they may face harm. Detention for the purposes of deportation should only happen if a person cannot provide valid identification documentation. If someone is detained they must be brought before a court within 48 hours and no detention can take place for longer than 30 days without being reviewed by a court which can then

extend for a further 30 days, and then may be extended for thirty days at a time up to a maximum of 120 days. Children should not be detained unless as a matter of last resort. If an individual is detained because they do not have immigration status in South Africa, they may indicate that they wish to claim asylum. If they do so, then by law they must be released and allowed to pursue an asylum application.³⁸

Conclusion

The section above has given a very brief introduction to some of the international, regional, and national laws that apply in the context of international migration in South Africa. It has also summarized some of the key rights-enabling court judgments that are important for people on the move in South Africa. This is to help pastoral agents to be better equipped to assist people on the move in South Africa and to be able to speak to them about what their rights are, while also having a deeper understanding of the broader context. In the section below, some resource materials are listed, as well as resource organizations. These are helpful as places where people can be referred to if they are having difficulty in accessing either documentation or their rights, or if they are experiencing discrimination.

Resource Materials

In the sections in this chapter, footnotes have been provided that can be used to access a specific document such as a piece of legislation or a policy or handbook. However, there are additional handbooks and resources, as well as websites, and entities, that can be useful when assisting people on the move in South Africa. The table below provides a list of these, however, this list is not a complete list as many can be added, or can sometimes be specific depending upon the province or town that you are in. A useful list

³⁸ For more information on immigration detention, please see: <https://www.lhr.org.za/lhr-resources/a-practitioners-guide-to-immigration-detention-in-south-africa>

of public interest organizations across South Africa can be found at the Public Interest Legal Services (PILS) website: <https://www.pils.org.za>, other organizations (some of which are already on the PILS website) are also provided in the table below.

| Name | Website | Focus area or issue |
|---|---|---|
| United Nations High Commissioner for Refugees | https://www.unhcr.org/south-africa.html | Refugees and asylum seekers. |
| South African Catholic Bishops Conference | https://sacbc.org.za | Pastoral care generally, and with a specific migrant and refugee office. |
| Catholic Parliamentary Liaison Office | https://www.cplo.org.za | High-level advocacy, with a focus on many issues including migration, refugees, and asylum seekers. |
| Lawyers for Human Rights | https://www.lhr.org.za | Pro bono legal services generally, with a refugee and migrants programme. UNHCR legal implementing partner. |
| Legal Resources Centre | https://lrc.org.za | Pro bono legal services and advice. |
| University of Cape Town | http://www.refugeerights.uct.ac.za | UNHCR legal implementing partner, providing pro bono |

| Name | Website | Focus area or issue |
|---|---|---|
| Refugee Rights Unit | | legal services and advice to refugees and asylum seekers (Western Cape). |
| Nelson Mandela University Refugee Rights Centre | https://cla.mandela.ac.za/Refugee-Rights-Centre | UNHCR legal implementing partner, providing pro bono legal services and advice to refugees and asylum seekers (Eastern Cape). |
| Adonis Musati Project | https://www.adonismusatiproject.org | UNHCR social services implementing partner (Western Cape) providing counselling and social services to refugees and asylum seekers. |
| Refugee Social Services | https://refugeesocialservices.co.za | UNHCR social services implementing partner (KZN) provides counselling and social services to refugees and asylum seekers. |
| Jesuit Refugee Services | https://jrs.net/en/country/south-africa | Medical care, income generation support, and advocacy support for refugees and |

| Name | Website | Focus area or issue |
|--------------------------------|---|---|
| | | asylum seekers (JHB and Pretoria). |
| Scalabrini Centre of Cape Town | https://www.scalabrini.org.za | NGO based in Cape Town that provides welfare services, advocacy and paralegal support, English language training, and job/employment support to asylum seekers, refugees, and migrants. |
| Save the Children | https://www.savethechildren.org.za | International NGO focused on assisting migrant and asylum seeker/refugee children in South Africa. |
| Future Families | https://futurefamilies.co.za | UNHCR implementing partner offering social welfare services and support in Pretoria and Musina. |
| Messina Legal Advice Centre | https://www.facebook.com/MusinaLegal | Pro bono legal advice services in Musina. |
| Department of Home Affairs | http://www.dha.gov.za | The government department tasked with facilitating immigration as well as |

| Name | Website | Focus area or issue |
|----------------------------------|---|---|
| | | assisting refugees and asylum seekers in South Africa. |
| Department of Social Development | http://www.dsd.gov.za | The government department assisting with social welfare in South Africa, including social grants through SASSA. |
| UNICEF | https://www.unicef.org/southafrica | International UN Agency that assists with children's rights in South Africa. |
| Doctors without Borders/MSF | https://www.msf.org.za | With sites in Cape Town, Pretoria, and Musina, MSF assists migrants, asylum seekers, and refugees (and South Africans) with health access, and also does monitoring at Lindela. |
| | | |

The Way Forward

South Africa is moving towards a more securitized approach to international migration. What this means is that instead of migration being viewed as an opportunity, it is more likely to be viewed as a threat. This has an impact on those seeking to come to South Africa to be employed, as well as those needing to come to South Africa to seek refuge and protection. Crucial in our approach to international migration is the need to re-emphasise and re-centre the opportunities that migration can bring, not only to South Africa but to a whole region. This includes opportunities to stabilise a region through the assistance of international remittances that help people in their home countries. A further vital approach that needs to be emphasized is that South Africa commits in terms of international law, to offer protection to those who need it – people seeking refuge.

As the world changes and we see more impacts of the climate crisis as well as fewer resources, there will likely continue to be people needing to seek protection. The conversation must begin to shift back to protection and away from a securitized approach that sees immigration – and indeed immigrants – as a threat to the security and jobs of a nation and state. Ways that this can begin to be achieved are through knowledge sharing, education and awareness-raising, and practical assistance and service provision.

Providing knowledge of the systems in place. Giving people a type of ‘map’ of what laws and policies might impact them based on their individual position, but also providing them with information about what they can expect within a government (bureaucratic) system, such as the asylum and refugee system. Often, simply providing this map and information, goes a long way in reassuring an individual and helping them to access the system armed with knowledge and faith that they have allies.

Practical assistance can include referring individuals to organizations that do offer the service if it is an issue that you are not familiar with or less comfortable offering assistance in. Advocacy is also needed, both at ground level with individual service providers and through accompaniment where needed, but also at a higher level, through engagement with ward councillors, politicians, and other decision-makers within government departments, including regional bodies where appropriate. There is much that can be done to assist people on the move in South Africa, including children on the move, it starts with a conversation with the individual involved to understand their needs and what information they may find useful. That conversation is the start of a journey, hopefully, a journey that is less precarious, and more friendly than the one that they undertook to reach South Africa, and certainly a journey with more allies and persons able to provide pastoral care and assistance.

THE CHURCH'S RESPONSES TO MIGRATION: From Pope Leo XIII to Pope Francis

Fr Avelino Chico, SJ

Introduction:

Migration is one of the subjects, which the Catholic Church has been dealing with. The reply of the Church can be found in several documents: councils' decrees, apostolic exhortation, Episcopal conferences' pastoral letters, encyclicals, *Motu proprio* and Popes' radio addresses. While in the late nineteenth and early twentieth century, the Church was tasked to respond to a war-induced migration characterized by forced displacement of numerous families and the entire population, currently it is involved in a more complex type of migration whose causes are multiple and multiform too.

Pope Leo XIII (1878-1903)

Pope Leo XIII writes in the context of the industrial revolution and the displacements enhanced by the labour market. Rural societies were being dismantled by the mass mobility towards industrial zones. Many Italian workers and families were leaving for the USA fleeing poverty. The Pope perceived the need for assisting the emigrants. His concern was more pastoral and the recipients were exclusively Catholics. In 1888 he published the encyclical *Quam Aeromonas* in which he promotes the

establishment of the ‘national parishes’³⁹ in the host countries. Along with this, he encourages creating patronages and forming priests specialized to attend to emigrants. One of such institutions was created by the so-called ‘Father of Immigrants’, Giovanni B. Scalabrini. These were Scalabrinian Missionaries who assisted the Italian immigrants in America.⁴⁰

Pope Pius X (1903-1914)

He organized institutions to accompany emigrants and the displaced. Unlike Leo XIII whose main focus was the host countries, Pius X involves both societies. While host countries had the duty to integrate the immigrants, the home countries were urged to become interested in their nationals. To make it formal, in 1914 he promulgated the *Motu proprio lam pridem*. In it, he asked the Italian bishops to raise funds for the foundation of the Roman College tasked to form priests who would work with Italian emigrants in the USA. Years earlier, in 1908 he delivered a message animating the creation of Episcopal commissions to assist migrants. In the same year, he launched some reforms to the Roman Curia, which ended up incorporating the Office for the Spiritual Care of Emigrants within the Sacred Consistorial Congregation. This was later named the Congregation for Bishops and Pope’s idea was to gather suggestions from different bishops. This Office, created in 1912, was the one, which at large allowed the birth of the current Refugees and Migrants Section (M&R).

Pope Benedict XV (1914-1922)

The pontificate of Benedict XV coincided with the First World War and his constant appeal for peace has earned him the title the ‘pope of peace’. He was engaged in attending to the victims of the war. He appointed a bishop fully in charge of the expelled. In 1919, he published the encyclical *Paterno*

³⁹ These parishes were being run by foreigner priests who spoke and were from the same countries like emigrants themselves.

⁴⁰ García, Paola, “La Inmigración: un Nuevo Reto para la Iglesia Católica Española”, *Anuario Americanista Europeo* (3), 2005, 3.

diu iam in which he invited everyone to offer food, clothing and money to help the affected, particularly children. One of the Pope's achievements was to institute, in 1914, the World Day of Migrants. The set-up of this day has its origin in the work of Pius X. The fundraising he had asked from Italian Bishops to found the Roman College did not succeed. Benedict XV brought back the demand and on December 6, 1914, wrote a circular letter titled *Il dolore e le preoccupazioni*. The letter had inaugurated the celebration of World Day of Migrants and Refugees.⁴¹ The celebration was only confined to Italian territory. But in 1952, with Pius XII, this day gained worldwide range.

Pope Pius XI (1922-1939)

Pius XI exercised his pontificate between the end of the First World War and the environment which had triggered the beginning of the Second World War. In addition, he witnessed the rise of two political ideologies: German nationalism led by Adolf Hitler and Soviet communism commanded by Joseph Stalin. In this regard, the Pope faced the task of encouraging the Church and dioceses, in particular, to welcome refugees and internally displaced people. He also condemned the persecution and atrocity of people, mainly Catholics, that was taking place in Mexico. He raised his voice condemning it through the encyclical *Iniquis afflictisque*, published in 1926. Pius XI did not write much about migration; however, he made use of the Vatican Radio, inaugurated in 1931, with his radio address. He talked to people from the whole spectrum of the society including refugees and migrants.

⁴¹ Maria Vegliò, Antonio, "La Sfida Culturale delle Migrazioni: Rische e Opportunità", in Giulio Cipollone, ed. *La Sfida delle Migrazioni: Rische e Opportunità* (Roma: Gangemi Editore Spa, 2014), 40.

Pope Pius XII (1939-1958)

His predecessor died a few months before the eruption of World War II. Pius XII experienced firsthand the consequences caused by the war. The pontiff was the eyewitness of countless people who were forced to leave their homes and countries. To address this, in 1952 he published the encyclical *Exsul familia nazarethana*, in which he claimed the right to immigrate. The Pope justifies his demand from the principle of the universal destination of goods. This is translated into the need for a better distribution of goods and their use for the common good of everyone. Pius XII was the one who extended the World Day of Migrants and refugees to all dioceses in the world. He was also the one who instituted the Higher Council for Emigration and maintained it within the Consistorial Congregation. Later on, he enlarged this department and ascribed to it the *Apostolatus Maris* and the General Direction of the Apostleship of the Skies or the Air.

Pope John XXIII (1959-1963)

John XXIII exercised his pontificate in the context of post World War II, the expansion of communism, the Cold War, the Cuban Missile Crisis and the struggle for independence from the colonial powers. This background is more than sufficient to understand the displacement, inflows and outflows of people across the world. Like Pius II, he also appealed for the right to immigrate. As he puts it: "it is in this that the right of families to migrate is rooted. And so our predecessor, in speaking of migration, admonished both parties involved, namely the country of departure and the country receiving the newcomers, to seek always 'to eliminate as far as possible all obstacles to the birth and growth of real confidence' between the nations."⁴² In his encyclical *Pacem in terris*, the right to immigrate is sustained as an ethical requirement and the person's membership in the

⁴² *Mater et magistra* 45.

human family. Hence, he requested the governments to grant this right on the ground of the common good and worldwide fellowship of people.⁴³

Pope Paul VI (1963-1978)

Paul VI has derived his contribution from the Second Vatican Council's teaching whose works he helped to conclude. Unlike previous pontiffs, Paul VI was the only Pope who had visited all the continents. Even though he had to deal with matters from the Council, Pope Paul VI devoted time to producing documents that are still useful for contemporary teaching on migration. Early in 1969, he published a motu proprio *Pastoralis migratorum cura* which amassed theological teachings and queries highlighted during the Council and years after. Four instructions can be captured from the document: first, the cry for justice; second, economic growth and technological advancement should be human-centred; third, local churches should emerge as leading entities; and fourth, new trends of evangelization should always be explored. The Pope was already sensing the effects of globalization and sought to expand the Church's initiatives. He did so by initiating *Apostolatus Nomadum* and the Pastoral Care of Tourists. With this move, all kinds of displacement were taken into account.

Pope John Paul II (1978-2005)

When Pope John Paul II was elected, migratory flows became more complex. Men were being succeeded by women in leading these movements. The flows were more random and the composition of immigrants turned more heterogeneous. In other words, the homogeneity which has always characterized these flows with countries, such as France, England and Portugal receiving mainly immigrants from their old colonies was no longer the case. Historical past, cultural connection, language link and family nexus were no more major pull factors when it came to

⁴³ *Pacem in terris* 25.

choosing a host country. Globalization, communication and improvement of transport were tearing apart the traditional homogeneity. The *magisterium* of John Paul II came across this complex context and “his approach can be considered as a point of maturity in the reflection on migrations.”⁴⁴

The Pope’s teachings on human mobility target three main areas of concern: first, specific pastoral care for migrants; second, respect of their dignity; and third, assist them wherever they find themselves in. The three enlightenments can be found in his messages on the World Day of Migrants and Refugees, encyclical *Sollicitudo rei socialis* as well as speeches. Though it seems contradictory, the Pope defends the right not to immigrate and the right to immigrate. The right not to immigrate implies “the right to live in peace and dignity in one’s own country [...] more equitable trade and supportive international cooperation [...] freedom of expression and movement, the possibility to satisfy basic needs such as food, health care, work, housing and education.”⁴⁵ The lack of these rights, continues the Pope, “forces many into a position where their only option is to emigrate.”⁴⁶ So, he also argues for the right to immigrate from “the concept of universal common good, which includes the whole family of peoples, beyond every nationalistic egoism.”⁴⁷

⁴⁴ Aparicio Malo, José Manuel, “Migraciones y Doctrina Social de la Iglesia”, in José M. Caamaño y Pascual Cebollada, eds. *Pensamiento Social Cristiano* (Madrid: Universidad Pontificia Comillas, 2015), 186.

⁴⁵ John Paul II, “Message for the 90th World Day of Migrants and Refugees 2004”, 3.

⁴⁶ John Paul II, “Message for the 90th World Day of Migrants and Refugees 2004”, 3.

⁴⁷ John Paul II, “Message for the 87th World Day of Migration 2001”, 3.

Pope Benedict XVI (2005-2013)

Pope Benedict XVI's merit consists in introducing foreign students under the category of human mobility. The theme of the 92nd World Day Message of Migrants and Refugees was "Migrations: a sign of the time". Among these signs, the Pope identifies the foreign students, "whose numbers increase every year in the world."⁴⁸ The displacement of foreign students, particularly in Europe, is being fomented by foreign exchange programs between universities. The Bologna Declaration, which was signed in 1999 paved the way for the exchange programs. Since then, each semester, students move all over Europe flooding several universities. For Pope Benedict, this entails "consequent pastoral problems the Church cannot ignore. This is especially true in the case of students coming from developing countries, whose university experience can become an extraordinary occasion for spiritual enrichment."⁴⁹

Pope Francis (2013-)

Pope Francis has introduced the 'culture of encounter' in migrant ministry. In July 2013, he made a historic visit to the Italian port of Lampedusa, which serves as the gateway to the European continent. In the same year, he drove to *Centro Astalli*, the Jesuit social centre for the pastoral care of refugees in Rome, Italy. In 2016, he flew to the island of Lesbos, in Greece. There, the Pontiff visited Moria, a refugee camp and the coastal guard post where he prayed for the migrants whose bodies were 'consumed' by the sea. In the same year, the Pope ended his trip through Mexico with a whirlwind one-day visit to Ciudad Juárez, located on the northern border with the United States. Besides showing the Church's concern, Pope Francis wanted to bring to our consciousness the drama of the displaced. Finally, to voice the Pope's claim in 2017, the Vatican Dicastery for

⁴⁸ Benedict XVI, "Message for the 92nd World Day of Migrants and Refugees 2006".

⁴⁹ Benedict XVI, "Message for the 92nd World Day of Migrants and Refugees 2006".

Promoting Integral Human Development became operational. The Dicastery includes the M&R, which is directly under Pope Francis. In the Audience Hall on 5 November 2016, Pope Francis explained why he had taken such a decision: “I decide that, at least for a while, that [M&R] would be directly under the Pope, because here we have a disgraceful situation that can only be described by a word that in Lampedusa came spontaneously to my lips: shame.”

The mission of the M&R consists in supporting the local Church’s response to accompany all categories of people on the move, namely migrants, refugees, asylum-seekers, IDPs and victims of human trafficking. The M&R provides information, shares documents, encourages communication and networking among episcopal commissions responsible for migrant ministry. To accomplish such a mission, since 2017 the M&R has been producing important documents for pastoral assistance of people on the move. The Pastoral orientations are available in various languages, can be downloaded and consulted online (<https://migrants-refugees.va/>). Some of them are *Twenty Pastoral Action Points on Migrants and Refugees* (2018), *Pastoral Orientations on Human Trafficking* (2019), *Pastoral Orientations on Internally Displaced People* (2020), *Pastoral Orientations on Climate Displaced People* (2021) and *Pastoral Orientations on Intercultural Migrant Ministry* (2022).

Concluding Remarks

The Church has always been on the frontline attending and assisting immigrants and refugees. At first, this pastoral service was only for Catholic believers. It aimed to let the faithful continue with their sacramental life. In other words, the growth of their faith was the *leitmotiv* of this pastoral ministry. However, with time the pastoral care was extended to all humankind independently of one’s religion. One of the signs of such a step was given by Pope Pius XII who expanded the celebration of the World Day of Migrants and Refugees all over the world. Moreover, migration flows are increasing and traditional push and pull factors are no longer the only

drivers to understand this phenomenon. Family bonds and ecological disasters are among other factors. In this way, the response the Church gives should also be widened. The Church should push for economic policies which seek to adjust inequalities between States, inspire governments to speed up job creation, and stimulate the integral development of individuals.

THE VIRTUE OF HOSPITALITY IN THE BIBLICAL TRADITION

+Buti Thagale o.m.i.

Introduction:

One way of combatting xenophobia is to treat other people the same way we would like them to treat us. But this is a theoretical statement. It expresses a wish. It may however find meaning within the efforts of groups or communities faced with the predicament of labelling people and then turning against them. Our aspiration should be to create welcoming communities. Such communities should be trustworthy and dependable and not fickle, whimsical or prone to being swept in all directions by howling mobs of people. Welcoming communities should consciously seek to provide places of healing, safe places and places of refuge. But we should also be careful that history should not repeat itself. Parish churches in Ruanda, in 1994 became places of death. We should avoid this at all costs. Those who generously host people in need are generally better persons. They put others first. They possess the quality of the Good Samaritan, the compassionate Samaritan who welcomed and hosted a beaten up stranger (Lk.10.29). To become better persons with a human heart is the vocation of every human being. This is not just a fleeting sentiment, it is the stuff of which genuine human beings are made.

Learning from Tradition

The reckless, senseless and at times even cruel violence meted out against immigrants and refugees nudge us strongly and even compel us to revisit the traditions and wisdom of our ancestors in the faith concerning human relationships, hospitality and the love of neighbour.

Abraham's Kindness

In the book of Genesis, we read a compelling narrative about Abraham's attitude towards the three visiting strangers. Abraham and Sarah were open, welcoming, warm and hospitable. They embodied the spirit of ubuntu. They understood that "isisu somhambi asingakanani, singangesinyoni" (with little food, a traveller can go far). The strangers were welcomed with water to wash their feet, and bread to re-fresh and to energise themselves. It gradually dawned on Abraham that these strangers could be the emissaries of God. Abraham's sheer humanity, his heart of gold and his attractive virtues of kindness, generosity and hospitality were strengthened by his unshakable faith in God. In the words of Abimelech to Abraham: "God is with you in all you are doing" (Gen.21.22). All human beings potentially possess this gift of grace that needs to be rekindled from time to time so that it shapes and directs our attitude towards other human beings (Gen.18. 1-15).

Pharaoh's Generosity

In the intriguing story of Joseph, son of Jacob, the Canaanite, Pharaoh the King of Egypt, encourages Joseph, a foreign national working as an administrator in Egypt, to invite his brothers and their father to Egypt. The land of Canaan experienced a severe famine. Pharaoh gave the Canaanite immigrants in Egypt, "the best the land of Egypt offers" (Gen.45.18). Pharaoh's kindness, generosity and hospitality were clearly in recognition of Joseph's administrative efficiency, loyalty and generosity of heart. For Pharaoh had asked his ministers, "Can we find any other man like this, possessing the spirit of God?" (Gen.41.37). Recognition of the spirit of God in others is a critical element of the "things that make for peace" (Lk.19.42). In today's world, migrants are found in every single country. They bring along with them their precious talents, their goodwill, generosity and the spirit of God. They are selfless in their contribution to the advancement of their host countries. The Pharaoh of Egypt recognised this exceptional gift in Joseph, the Egyptian immigrant from Canaan. An

honest and shameless recognition of the sterling contribution of members of the immigrant community by members of the host country would radically alter hardened attitudes, dissipate unfounded fears and pave the way towards the spirit of mutual acceptance way beyond a climate of mutual tolerance.

The Kindness of Boaz

The story of Naomi and Ruth tells us about the tenacity of families and the deep longing to be together. Families are uprooted from their land of birth largely not of their own doing or choice. Families are often compelled to cross borders, at times several borders, due to circumstances beyond their control. Families cling together. For many migrants and refugees, the story of Ruth is essentially their own story. The words of Ruth captures adequately their own sentiments:

“Wherever you go, I will go
Wherever you live, I will live
Your people shall be my people
And you God, my God
Wherever you die, I will die”.
(Ruth.1.16).

At times, host countries make it difficult for families to join members of their families, thus causing untold harm to families that are already burdened with the challenges of migration.

Ruth’s story also highlights the kindness, generosity and welcoming spirit of Boaz, the owner of the field where Ruth had gone “to glean and gather the ears of corn after the reapers” (Ruth 2.7). Boaz went out of his way to instruct the workers not to molest her. He told her that she could drink the water drawn from the well by his servants. Ruth was moved by Boaz’ kindness to her “even though I am a foreigner” (2.11). Unbeknown to Ruth, her reputation had gone ahead of her. She is the woman “who has been on her feet from morning till now” (2.7). She has been kind and supportive of her mother-in-law since her husband died. The story of Ruth

puts in relief the virtues of kindness, generosity and hospitality of Boaz. This is in stark contrast to the attitudes of some South African farmers who exploit migrants and refugees and even South Africans who work on their farms. Their workers live in sub-human conditions. They are paid slave wages and can be dismissed from work at the drop of a hat. The dignity of workers as human beings counts for nothing.

The welcoming and generous attitude of Boaz shines the spotlight on employers who are driven by greed. Greed is the single vice that pushes heartless employers to hoard the profits of labour. Ruthless companies amass wealth that should be used for the upliftment of all people. It is this greed that keeps the African Continent in chains. It is this greed that compels the poor to leave their countries in search of more welcoming countries. In this regard, South Africa is hopelessly wanting.

David's Kindness

I would like to insert here the story of David and Meribaal for it highlights in a striking manner, the virtues of kindness, humility and gratitude. King Saul and his son Jonathan, died in the battle against the Philistines on Mount Gilboa (1 Sam.31. 1-6). David was most distraught at the death of the two people he admired greatly. So saddened he was that he ordered the messenger, "the son of a resident alien" to be killed (2 Sam.1.15). This may sound odd and even contradictory when raised within the context of highlighting David's virtue of kindness. David went on to seek out any surviving relative of Saul and Jonathan to show them God's kindness. David found Meribaal, the son of Jonathan. He showed him kindness by restoring all the land of Saul to him and inviting him to eat always at his table. This kindness and generosity shown to Meribaal by David was in honour of the memory of Saul who's "sword never returned idle" and in honour of Jonathan whom David called brother:

"Very dear to me you were, your love to me
more wonderful than the love of a woman"
(2 Sam.1.26).

We glean from David's generosity and kindness to Meribaal that a good turn deserves another, that the impact of the memory of a favour, a kindness once received in the past may inspire one to seek to replicate acts of human kindness. The cruel and hostile attitude of South Africans towards the members of migrant communities is ample evidence that South Africans have largely forgotten that they were "once slaves in Egypt", that they were once the "scum of the earth" under the brutal apartheid system. They have conveniently forgotten the miracle of liberation and the restoration of their own human dignity. They incessantly complain about the severe lack of employment and the faltering economy. The book of Job has a poignant reminder: "If we take happiness from God's hand, must we not take sorrow too?" (Job 12-10).

The Scourge of Drought

Famine was one of the major scourges of the Israelites as they traversed the desert with the Promised Land in mind. Famine led many to apostasy. They elevated the forces of nature and idols to divine status in search of an alternative provident god. It was the famine that drove the brothers of Joseph to leave Canaan and go to Egypt to purchase grain (Gen.41.56). It was the famine that drove Naomi and her family to leave Bethlehem to settle in the country of Moab (Ruth 1.1).

In our day and age, the scourge of drought and famine on the African continent has left in its trail widespread poverty. Poverty in turn has driven many to leave their countries of origin in search of better opportunities. But on the African continent, famine is not the only scourge. There are serious challenges of undiluted greed on the part of many who rule the people and those who manage the savings of the poor. Self-aggrandizement has become a stubborn vice in the ailing fabric of society. Maladministration, the lack of accountability, the dearth of ethical leadership and the pervasive corruption have all conspired against the welfare of the people and have virtually reduced the economy of South Africa to junk status.

The Widow of Sidon

It was again the severe absence of rain that led the prophet Elijah to Sidon where he experienced the hospitality of a widow who had only “a handful of meal in a jar and a little oil in a jug” (1 Kings 17.12). The widow prepared a meal and all three of them ate to their satisfaction. For God had prophesied through Elijah that:

“jar of meal shall not be spent
jug of oil shall not be emptied
before the day when Yahweh
Sends rain on the face of the earth”
(1Kings 17.14).

Jewish Hospitality

In the Jewish tradition and culture, the virtue of hospitality was highly cherished. In the Gospel of Luke, Christ reproached his host, a Pharisee who had invited him for a meal. According to custom, the host was expected to offer him water to cleanse his feet, to give him a kiss of greeting and oil for anointing his head. But Simon, the host, failed in observing the revered acts of hospitality (Lk.7.44-47. Jn.12.3). Rituals of hospitality are deeply embedded in people’s cultures because they are a significant statement in themselves. They underline the spirit of mutual acceptance, of a friendly disposition and good neighbourliness. Acts of hospitality are acts of reassurance. They manifest human warmth. They promote peaceful human relationships. Rituals of welcoming people, and ordinary greetings of peace are an antidote to the evil of conflict among people.

The biblical tradition has these compelling stories about hospitality, kindness and compassion. The ordinary characters of the stories are shown to have practised hospitality to a heroic degree. This welcoming attitude is an integral part of the human constitution. The virtues of kindness and hospitality, the fruits of the Spirit, are to be nurtured and

developed so that they may become the defensive rampart against narrow nationalistic attitudes. The vice of xenophobic prejudice ought to be replaced by the virtue of hospitality. Unlike the fruitless effort of Sisyphus (Greek Mythology) efforts to build welcoming communities are a worthwhile undertaking.

Integration of Communities

The integration of migrants and refugees into local communities is the ideal. Integration has its challenges. It means getting a steady job and a reliable address. A welcoming community, parish, school or club, facilitates integration. In rural communities where the members of migrants and refugees are limited, integration takes place without any major obstacles. It is quite common that migrants who now own small businesses have actually hired local people in their businesses. The arrival of some migrants and refugees in some communities means that there is a wider pool of talents to draw from. They enhance the cultural diversity of local communities. Those who have been in South Africa for many years are already fluent in some local languages. This is a great advantage for it makes them feel at home. Language helps break barriers. Language creates community. A conscious celebration and promotion of the virtues of hospitality and community go a long way towards healing the memories and scars inflicted upon those who ultimately decided to leave their own countries. Some have left under traumatic circumstances. To migrate from one's country is at times a singular act of courage and an extraordinary act of self-liberation. An appreciation of the circumstances that promoted migration in the first instance might render an act of hospitality much more valuable. St. Paul's advice is handy: "While we have the chance, we must do good to all" (Gal.5 1-10).

In some of the urban areas, the challenges of integration are far more glaring. Migrant communities tend to congregate together. Even if they belong to the same parish as the local people. Their loyalty appears to be torn between their own group and the local people. For example, the St.

Anne's Women's Sodality of Zimbabwe maintain their uniform and have meetings of their own even though some of them have been in these local parishes for more than a decade. They seek to maintain their identity as Zimbabweans. Ideally, a balance must be found between maintaining one's identity, one's interests and one's sense of belonging to the host community. The migrant communities need to continue to celebrate their National feast days, their cultural events and liturgies in their own languages. For people who have been uprooted from their land of birth either by a persistent drought or by the absence of opportunities or political oppression, these celebrations are therapeutic. But it takes two to tango. Both the migrants and the local people have to willingly find each other. Prejudice is overcome when both parties become involved in the same projects.

At the beginning of September 2019, there was yet another outbreak of violence against the migrant community. In Johannesburg, foreign-owned shops were hopelessly looted and the owners attacked. In Kwa-Zulu Natal and the Western Cape, foreign truck drivers were attacked and their trucks set alight. The widespread senseless violence jolted the civil authorities out of their comfort zone. This was a far more serious disruption of violence. Some Nigerians in Nigeria threatened to disrupt South African businesses in Nigeria as a form of retaliation. The Zambians cancelled a friendly football match with a South African team. The South African government sent emissaries to Nigeria to offer an olive branch and an explanation of the circumstances that led to the eruption of violence. In the government's explanation, the emphasis fell on criminality, and not on xenophobia. Even though criminal activity loomed large, it would be naïve to underplay or underestimate the deep-seated tensions between the migrant community and the local people who falsely accuse migrants of taking their jobs. The truth of the matter is that the South African economy has virtually ground to a halt. A far more convincing intervention by the state is desirable to quell the violence and deal decisively with those who commit crimes with impunity.

Attacks on migrant communities and their businesses are likely to continue because such attacks are now inextricably linked to service delivery protests. To disentangle the two will be a massive challenge. Service delivery protests and the anti-foreign sentiment do not belong together. The deep dissatisfaction of South Africans with the corruption and inefficiency of their own municipalities and their national government should not be blamed on migrants. It is grossly unethical to drag the migrants into the quarrels of South Africans. Migrants ought not to be the scapegoats for the serious failures of South Africans. South Africans ought not to harden their hearts and take out their pain on innocent migrants. Migrants have their own burdens to carry. South Africans ought to carry their own burden (Gal. 5.5).

Pastoral Vision:

It would be desirable that each Pastoral Parish Council identify, elect or co-opt a member on the PPC whose functions will be the following:

1. To coordinate migrants and refugees affairs within the parish community.
2. With the assistance of the PPC, to facilitate, create and promote a welcoming and hospitable parish community.
3. To create a discussion forum on issues of concern to both migrants and the local communities.
4. To liaise with the religious and NGO groups that are involved in migrant issues at the parish level.
5. To plan and to adopt best practices concerning the assistance given to migrants and refugees.
6. For example, the Holy Trinity church in Braamfontein cooperates with faculty members of the medical and dentistry schools to assist migrants.
7. To cooperate with Caritas, St. Vincent de Paul, Catholic Women's League and the Knights of Da Gama – to collect second-hand clothing and shoes for the needy.
8. To facilitate the provision of English lessons, if needed.

9. To pay special attention to the needs of the children of migrants.
10. To facilitate the integration of migrants into the local community.
11. To find ways and means of dissuading the local community from taking out their dissatisfactions on the migrant community.
12. Rituals of Reconciliation.
13. To appoint a sub-committee with the help of the PPC.

It would be advisable for diocesan or metropolitan coordinators to develop channels and platforms of coordination so that parishes are not overwhelmed by the amount of work in responding to the needs of the migrant community.

The sharing of reports helps to spread information on current challenges and best practices.

SOCIAL TEACHING OF THE CHURCH AND MIGRATION

Fr Rampe Hlobo, SJ

In the third chapter of the book of Genesis, we read about the expulsion of Adam and Eve from the garden of Eden. Since that dismissal, migration has been a feature of human existence. In some instances, certainly in the twentieth and twenty-first century, it has been an indispensable means of survival and preservation of life.

Today there are more than 281 million people who have migrated or left a place that they would normally call home. Although they are generally called or commonly known as migrants or refugees, there are many categories under which those who have left or have been forced to leave their homes fall. Here below are some of them that have been on the news regularly:

- 1) **Asylum-seeker** – A person who for fear of persecution or war, is seeking international protection. An asylum seeker is someone whose claim for refugee status has not been finally decided upon by the country in which he or she has submitted it. Before one becomes a refugee, he or she becomes an asylum-seeker.
- 2) **Displaced Person** – A person who has been forced or obliged to flee or leave his or her home or place of residence. Though not exclusively, normally the displacement would be caused by armed conflict, generalized violence, violation of human rights or natural disasters.

3) **Emigrant** – A person who has left or moved from his or her country of birth, nationality or usual residence to a different country (Country of destination) for residence.

4) **Environmental Migrant** – Due to extreme weather patterns that are a result of the climate crisis that is upon us, many people have been forced to abandon their homes because of the devastating weather. The International Organisation for Migration (IOM), the UN Agency for Migration, describes an environmental migrant as a person who for the reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are forced to leave their place of residence. This forced move can be either temporary or permanent. It can also be within the country of birth or outside.

5) **Immigrant** – A person who arrives or moves into another country other than his or her country of nationality or usual residence. The country of destination effectively becomes his or her new country of residence.

6) **Internally Displaced Person (IDP)** – A person who has been forced or obliged to flee or leave home or place of habitual residence as a result of armed conflict or to avoid the effects of armed conflict, violence, violations of human rights, natural and man-made disasters. Although forced to leave a place that is referred to as home, an IDP, unlike asylum-seekers and refugees, has not crossed an international border.

7) **Labour Migrant** – A person who has moved from his or her place of habitual residence to another for employment. This movement can be within one's country or could involve crossing international border(s).

8) **Migrant** - The IOM defines a migrant as any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) the causes for the movement; or (4) the length of the stay. Anyone moving

from one country to another is considered a migrant unless he or she is specifically fleeing war or persecution. It further explains a migrant as an umbrella term reflecting a lay understanding of a person who moves away from his or her home. Smuggled persons and international students are also considered migrants.

9) **Refugees** – The 1951 Geneva Convention relating to the Status of Refugees defines a Refugee as a person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. The Organisation of African Unity (OAU) 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa, further broadened the definition of a refugee

to also include every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his or her place of habitual residence to seek refuge in another place outside his or her country of origin or nationality.

10) **Separated Children** – These are children who have been separated from both parents or their legal or customary caregiver. The Convention on the Rights of the Child underlines in its definition of separated children that this separation does not necessarily include separation from other relatives. It, therefore, means separated children include those accompanied by their adult relatives.

11) **Smuggled Person** - A person whose irregular entry into another country or state that is not of his or her permanent residence, has been facilitated by a third party for (in)direct financial or material benefit.

12) **Stateless Person** – A person who is not considered as a national citizen by any State under the operation of its law.

13) **Trafficked Person** – Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons defines human trafficking or trafficking in persons as the recruitment, transportation, transfer, harbouring or receipt of persons, using the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

14) **Unaccompanied Minor** - A child who has been separated from both parents and other relatives and is not being cared for by any other adult who, by law or custom is responsible for taking care of that child.

According to the United Nations High Commissioner for Refugees (UNHCR), - the United Nations (UN) Refugee Agency - as a result of persecutions, conflicts, violence and or violation of human rights, by the end of 2020 there were 82, 4 million forcibly displaced people. Of that figure, Refugees amounted to 26, 4 million while asylum-seekers were 4, 1 million and Internally Displaced Persons (IDPs) added up to 48 million. Refugees and other forcibly displaced persons are always forced to move and become migrants fleeing involuntarily because their homelands are no longer hospitable. Human Trafficking for reasons such as sexual and labour exploitation, slavery, forced marriage, organ harvesting and others, has also been shockingly on the rise in the twenty-first century. In 1982, – when the number of forcibly displaced persons was just 17 million - in his 25 June 1982 letter to the High Commissioner of the United Nations for Refugees, before the situation of forcibly displaced persons was as bad as

it currently is, Pope John Paul II described the refugee situation as “A shameful wound of our time.” Since then, the numbers have just been rising and the situation becoming more desperate and dire without any durable solution in sight.

Faced with not only the challenge of human mobility that has always been an attribute of human existence but with many other social (in)justice challenges, the Catholic Church, has over the years, used its religious background and conviction to accompany the vulnerable and marginalised. It has for a long time through the Catholic Social Teaching (CST) or Catholic Social Doctrine (CSD) engaged in social justice issues, promulgated ideas, theories and doctrines on such and other matters pertaining to the well-being of the people, including migrants, refugees and other forcibly displaced persons.

The CST or CSD is in reality a compilation of all ideas, teachings and theories of social life developed over the many years of the Church’s existence. CST is literature written as responses of many popes and bishops to countless political, economic, social issues and injustices. Pope Leo XIII in May 1891 published the first and the landmark encyclical called *Rerum Novarum* that has been understood as the ground-breaking document in CST. The CST promotes among many other principles, Preservation of life, Human Dignity, the Common Good and Solidarity particularly with the poor, the vulnerable, the marginalised and the environment.

Although focusing mainly on the condition of the worker, *Rerum Novarum* was published at a time when the industrial revolution was in full swing and labour migrants were leaving homes in search of employment where industries were being established or already established. The condition of the worker that Pope Leo XIII lamented about, was the condition of the migrant labourer as well. It is also well worth mentioning that Pope Leo XIII was not only concerned about the physical or temporal well-being of migrants but also their spiritual welfare and nourishment. In the 1888

encyclical *Quam Aeromonas*, which he wrote to the American bishops three years before *Rerum Novarum*, he expresses his desire for the establishment of pastoral care for Italian migrants in America. Pope John Paul II, over a hundred years later in “Refugees: A Challenge to Solidarity”, reminded everyone that “all refugees have the right to a type of assistance that includes their spiritual needs during the time of asylum... and during the process of integration in the host country.” For the Church, both spiritual and temporal well-being of the forcibly displaced are indispensable tributaries of the integral development of a human person as argued in 1967 by Pope Paul VI in his encyclical *Populorum Progressio* (On the Development of Peoples).

Throughout the expanse of human mobility, solidarity with the people on the move, especially refugees and the other forcibly displaced, has been an issue and a concern. The former Secretary General of the UN Mr Ban Ki Moon put it very well when he said “We are facing the biggest refugee and displacement crisis of our time. Above all, this is not just a crisis of numbers; it is also a crisis of solidarity.” The Catholic Church has endeavoured to show solidarity with the forcibly displaced by advocating for their rights, especially the right to claim asylum as articulated in article 14 of the Universal Declaration of Human Rights (UNDHR) of 1948. It declares that “Everyone has the right to seek and to enjoy in other countries asylum from persecution.”

In 1963 Pope John XXIII in *Paecem in Terris* argued that “refugees are persons and all their rights as persons must be recognised.” He held the conviction that they “cannot lose these rights simply because they are deprived of citizenship of their own States.” Pope John XXIII was dolorous because of the restricted and in some cases strict manner in which certain states were limiting the rights to freedom of refugees. Consequently, these limitations denied refugees their human dignity which emanates from the *Imago Dei* (Image of God) inherent in all of us.

In advocating for the rights of migrants, refugees and other forcibly displaced people, the Church does not only become a proponent of their human rights but also a protagonist of the moral obligation for the preservation of the intrinsic human dignity of migrants, refugees and all the forcibly displaced. In *Refugees: A Challenge to Solidarity*, Pope John Paul II refers to the tragedy of forced displacement as a “shameful wound of our time.” The Church’s concern is the constant and persistent violation of the Image of God that is innate in every human being.

The principle of Solidarity, especially with the poor, the marginalised and the vulnerable is appropriately important in the CST. It is always encouraged as it is one of the many ways of helping the vulnerable like migrants and refugees to retain and protect their human dignity. It can equally help promote and achieve the preservation of their dignity. Pope John Paul II, for example, encourages this solidarity and love for the forcibly displaced. In his “*Refugees: A Challenge to Solidarity*,” he expressed his concern for refugees and described their tragedy as “a wound which typifies and reveals the imbalance and conflicts of the modern world.” “The Church,” he continues, “offers her love and assistance to all refugees without distinction as to religion or race, respecting in each of them the inalienable dignity of the human person created in the image of God (cf. Gn 1:27).”

This is also a way the Church is using to encourage host communities, in the words of Pope Francis, to overcome the culture of indifference and build a true “fruitful” culture of encounter, that returns to each person their dignity as a child of God. Much earlier, however, before Pope Francis, Pope Paul VI in his encyclical *Populorum Progressio* declared that “We shall always insist upon giving a generous welcome to others which is at once a duty of human solidarity and Christian charity. . . . [They should be] welcomed with brotherly love, [with] examples of upright living in which genuine and effective Christian charity and the highest spiritual values are esteemed.”

In his Lenten message of 1998, “Welcoming the poor: Reigniting hope,” Pope John Paul II also encouraged this attitude of hospitality. He asserted that this atmosphere of welcoming is ever more necessary in confronting today's diverse forms of distancing ourselves from others. He argued that “this is profoundly evidenced in the problem of millions of refugees and exiles, in the phenomenon of racial intolerance as well as intolerance toward the person whose only "fault" is a search for work and better living conditions outside his own country, and in the fear of all who are different and thus seen as a threat.”

In CST, especially teachings, commentaries, inputs and interjections pertaining to human mobility, one perceives a Church that has been concerned and journeying with the people of God on the move. In *Exsul Familia Nazarethana* (1952), Pope Pius XII underlines this concern of the Catholic Church and human mobility. He reminds us that the Church has always been present and effectively accompanying those on the move throughout the centuries: “Holy Mother Church, impelled by her ardent love of souls has striven to fulfil the duties inherent in her mandate of salvation for all mankind, a mandate entrusted to her by Christ. She has been especially careful to provide all possible spiritual care for pilgrims, aliens, exiles and migrants of every kind.”

Despite the complex nature of migration evolving over centuries, with the pull and push factors broadening, through the principles of the CST the Church has managed to remain relevant and close to the migrants, refugees and the other forcibly displaced persons. Catholic Social Teaching has not only been there in human mobility but has fundamentally helped many Catholics and non-Catholics to respond positively to the needs of those who have had to leave their homes for one reason or another. Through CST the Church continues to remind us that vulnerable people like the (forced) migrants, refugees, and many other people who have left home or have no place they can call home, are human beings created in the image of God with inherent dignity from where Human Rights have

roots. The Church's Solidarity with the displaced people is a spiritual and practical response to their plight to restore dignity and hope. This endeavour emanates from the conviction that, part of the mission of the Church is in the service of faith and the promotion of justice, especially the justice of the Gospel which is the embodiment of God's love and saving mercy.

References:

- 1) Exsul Familia Nazarethana
- 2) IOM: <https://www.iom.int/key-migration-terms>
- 3) Paecem in Terris: https://www.vatican.va/content/john-xxiii/en/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem.html
- 4) Pope Francis, 2016, <http://www.asianews.it/news-en/Pope:-Overcome-culture-of-indifference-and-build-a-true-culture-of-encounter-38564.html>
- 5) Populorum Progressio: https://www.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_26031967_populorum.html
- 6) Quam Aeromonas : https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_10121888_quam-aerumosa.htm
- 7) Refugees: A Challenge to Solidarity: https://www.vatican.va/roman_curia/pontifical_councils/corunum/documents/rc_pc_corunum_doc_25061992_refugees_en.html
- 8) Rerum Novarum: https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum.html
- 9) UNHCR Report: <https://www.unhcr.org/flagship-reports/globaltrends/>

ADVOCACY AND NETWORKING ON MIGRATION

Fr Peter-John Pearson

Introduction:

The Advocacy and Networking on Migration has played an active role at international, national and local levels. For some migrants, the churches and organisations provide concrete support and assist them with their own needs, especially at the beginning of their social network to help them cope with the experiences of displacement and dislocation. For many others, however, family and friendship networks are more important and when they move to another place they feel connected to them. Migrants often move to be close to family or friends who had previously moved to another country and who can provide information about employment and accommodation. Family and friends help maintain and recreate familiar habits, customs and traditions. Similarly, new friendships with other migrants, or relationships with old contacts that become closer through the experience of migration, help to foster feelings of familiarity and security.

In this chapter, I would like to invite you to have some reflection around the importance of Advocacy and Networking in our faith-based organizations and specifically through some documents and traditions of the Catholic Church.

In 2009 Pope Benedict XVI penned those insightful words about advocacy, especially in the faith community, in his encyclical *Caritas in Veritate*. In #78, he writes: ‘we contemplate the vast amount of work to be done, we

are sustained by our faith that God is present alongside those who come together in his name to work for justice..... a joyful task to be accomplished in a spirit of solidarity.

From the Pope's words, we can already tell that advocacy in the faith community is about bringing into being desired, socially just situations. In that same paragraph, he speaks of these activities as 'promoting and building forms of social and civic life...structures, institutions, culture and ethos.' That in itself gives us a preliminary understanding of what we are dealing with when we speak of advocacy. It is transformative action, sometimes achieved through robust action to change policies, institutions and political cultures, sometimes it is done through supporting good policies and an enabling environment. Whatever course of action we take, for people of faith, it is not just a matter of doing something that we feel wired up to do as a personal vocation, it is according to Pope Benedict XVI, a witness that faith places on every believer. Pope Paul VI had expressed it well when he said that 'working for justice and the transformation of the world is a constitutive element of preaching the gospel, or in other words, of the church's mission for the redemption of the human race and its liberation from every oppressive structure.'

Thus we can say with great certainty that advocacy and other forms of working for justice and the liberation of peoples from every form of oppression is part of our very core identity as Christians and therefore something we should all be engaged in.

These insights remind us that not only is it an expression of our identity as believers but that it is also best accomplished together in solidarity, in seeking out partnerships, in building up relationships and in giving public expression to our deeply held personal beliefs. I came across this quote recently that expresses it well. 'It is only through the realisation of the importance of relationships and the mobilisation of those relationships as

forms of political power that people can change their urban environment and participate effectively in civic life.'

The well-known scholar Walter Brueggeman says. 'Justice is not some romantic social ideal for another world. It is the hard work of redeploying social power and the transformation of the social system. Those of us who benefit from inequality in the world are susceptible to blind spots and generally, we struggle to keep those spots blind. But one must conclude from Micah and the whole prophetic tradition that the redistribution of social power is a crucial element of the Gospel, and that is a summons to justice.'

I think that at this point we can see very starkly that advocacy and other forms of working for justice is a task given to each of us without exception, it is also about justice and not merely about charity (even though of course that has its place as part of the bigger work of transformation). It is most often about 'redeploying social power' and that it is something that we do best together.

To return for a moment to Pope Benedict's important writings, three further important concepts are embedded in that definition. Firstly there is the concept of this work being 'public' or as it is often referred to in other circles, 'cizenry'. Saul Alinsky whose work I admire has said in this regard (and I think that it is important for our work in advocacy)

'When we talk about citizenship we talk and think in terms of informed, active, participating, interested people. A people can only participate if they have the opportunity to formulate their own program.'

The Pope also points to the importance and exercise of theology and more specifically to public theology in our advocacy work. Those who study theology often speak of 'apologetics' and 'hermeneutics'. Apologetics is about explaining what we believe and why we believe it. It encompasses the kinds of discussions we see in the Catechism. People may ask questions

like 'why do we believe in the Trinity or how do we understand three persons in one and one in three?' There are indeed explanations for these difficult questions and apologetics strives to clarify them. Hermeneutics on the other hand is about interpretation. So we can ask how is our understanding of the Trinity interpreted in politics for example? We would have to say that in our understanding of the Trinity all three persons are equal, even though they have different identities. For us, however, it makes the important point that the equality and dignity of all persons is a fundamental value in public life. It thus makes a statement against inequality and discrimination. This hermeneutical understanding of our foundational beliefs and texts is critical to how we think about real issues like xenophobia and racism in the public space.

Thirdly the Pope speaks often of solidarity. This is not only about working together but it is about how we envision our society. In Catholic Social Teaching, we speak of our fundamental vision as being a communitarian vision. That is the opposite of an individualistic vision which concentrates on the individual and what can benefit the individual at the expense (often) of the wider group or the community. Many of us will recognise that it is very close to the African concept of 'Ubuntu'- that we are who we are through others and that the wellbeing of one depends on the wellbeing of all. It is a key principle and starting point for advocacy in the faith tradition.

The point is that when we engage in any kind of advocacy, whatever the topic, it must be framed by these theological (and theoretical) values. These are the kinds of 'value adds' that we bring as people of faith to the world of advocacy.

One other characteristic of faith-based advocacy is that it is institutional. We work in and through institutions. This has many advantages. For example, faith institutions are places where wide varieties of ideas, people in positions of power and those without any power, are brought together and it provides a space for dialogue and discernment. Ernie Cortes says

that the church 'must help human beings who need institutions in society in which they can engage each other, reflect upon their values and experiences, teach their lessons to each other and act in concrete and specific ways.' Only in this way can everyone gain deeper insights into the religious meanings of public situations.

It is interesting to note that as the public challenges of faith are more and more obvious in the world around us, whether it be refugees, the growing disparity between rich and poor, patterns of abuse in dysfunctional power relationships, the growing catastrophe in our environment, so our understanding of social sin and the primary places for faith-based advocacy also grows. In 2008 the Church added another category of seven deadly sins to the traditional list of deadly sins, sins which must be resisted at all costs. These speak directly to the areas we often deal with in contemporary advocacy. These are 'polluting, genetic engineering, drug dealing, being obscenely rich, abortion, paedophilia, and causing social injustice.'

So with all of these considerations in mind as a framework for understanding faith-based advocacy, we can use the following as a working definition.

One definition of advocacy states: 'Advocacy is essential for assisting individuals, communities, institutions and neglected people to demand action around their rights. In a democracy, advocacy is an essential tool to ensure that people, especially the most vulnerable receive what is due to them. Advocacy informs people about which authority is responsible and where and how to approach them.'

Others, especially in church circles base their advocacy more closely on the 'see-judge-act method, particularly as it is elaborated in the pastoral cycle, or 'circle of praxis' as it is sometimes called. It is a methodology that is used by many activists. It is the fruit of Cardinal Cardijn's accompaniment of workers in Europe after World War II as they struggled to establish just

working and living conditions. I have borrowed from many authors and practitioners to describe this process of advocacy. Most agree, maybe with nuances, about the necessary steps in this kind of advocacy.

Let's say for example that a group of people were deeply concerned that at this critical point in the fight against COVID-19, vaccinations were only freely available for South African citizens and permanent residents. We however know that until all people living in South Africa, irrespective of their status, are vaccinated we will not achieve herd immunity and we will not be able to cross a decisive line in battling the pandemic and establishing a healthier, safer environment. We also know that despite some politicians' assurance that the health authorities will turn no one away, there is no proof that this is official policy. We also know that mobile people are afraid that if they give their addresses they will be traced and deported for not having the right documents and being in the country illegally. Others are afraid since their documents have long expired. The government is also cautious because a positive nod to the existence of the undocumented might be interpreted as an endorsement of their presence in the country. In an environment of repeated xenophobia, they are worried that such a necessary public health benefit will trigger xenophobic violence. According to the Statistical Services and the UNHCR, there are about 4.2m people in the various categories of refugees, migrants, asylum seekers and a small number of South Africans who are also completely undocumented.

If the group opted to do advocacy according to the pastoral cycle, this would be the basic advocacy process.

- The first step looks towards the actual experience and centres on questions of what are the experiences that need to be analysed and changed. It also asks what are the people concerned feeling. In the first step, all of the above information needs to be put on the table.

In this step, those involved in the advocacy project, analyse, examine the causes and the consequences, look at the linkages and ascertain the important factors that constitute the situation.

- The second step. In this step the advocates turn to their faith and ask how the Bible sheds light on this situation, how do you apply church teaching and especially Catholic Social Teaching to this situation? In this section, they look at many passages in the Bible, in both the New Testament and the Old Testament that speak very directly about justice for the widow, the orphan and the foreigner. They determine that the advocacy is in line with these Biblical injunctions. They also examine the many texts on this subject issued by the Church at both the international and local levels and see in those texts an affirmation for our advocacy. It thus becomes more than political action. In the deepest sense, it becomes an act of evangelisation.
- This critical third step then looks at a plan of action taking into account what resources are available, who needs to be approached what offices can help, where linkages exist, who has expertise? One might say that this step is concerned with practicalities. Many people engage in a SWOT analysis (SWOT stands for Strengths, Weaknesses, Opportunities and Threats) at this point, ascertaining what the strengths, weaknesses, opportunities and threats are in this plan of action. As they examine this crucial step, in this example, they could determine that they need a definitive statement from a very senior person affirming that vaccinations are open to all and dispelling any fear. To apply pressure they might decide to ask senior faith leaders, well known medical personnel, sportspersons and celebrities to participate in a campaign to call for vaccinations for everyone living in South Africa. People have learnt in previous advocacy projects that such pressure often pushes a positive decision from the government or people in authority. They will also network with

people close to the people who can make such decisions and whose voices are the ultimate authority such as the President and the Minister of Health to come out in favour of such a position and to declare it the unambiguous official position of the government. They also need to offer the assurance that any information captured by the health authorities will not be passed onto government security services following up on undocumented persons. Once this is done the advocacy group will for instance run publicity campaigns encouraging undocumented people to be vaccinated. One in the group might then hit on the idea that it might be worth advocating for premises belonging to religious groups to act as a neutral venue for those who fear going to government offices or clinics. This is another line of advocacy and will need to approach religious leaders and to ask such leaders to avail of their premises. A secondary advocacy program then emerges.

- This fourth step begins the action, assigns people tasks and engages the relevant authorities. It is worth noting that in this particular case, the advocacy covers three specific forms of advocacy. Some of it has a definite educative purpose, educating people on the rights of undocumented people, their inherent dignity and appropriate faith responses, that is designed to shape people's consciousness and praxis beyond this campaign. It also has an activist dimension and advocates around public events that grab people's attention and finally initiates advocacy at the level where decisions are made. In good advocacy, all three dimensions should be part of the strategy. Education, activism and political leverage.
- This final step looks at the feedback and is a time to determine what successes and failures have emerged. At this point, it needs to be considered whether the situation after the advocacy calls for more action, a fresh approach and different resources. It could in

all likelihood be the end of an advocacy project or it could begin another phase building on the previous project. The desired result may have been achieved, lessons learnt and a vulnerable community has been empowered. All advocacy gears to this end.

One aspect that virtually defines advocacy in all its phases and models is that it is essentially dialogical. We take up conversations with others, we provide space for debate and the contestation of ideas, we allow local wisdom to be brought to the fore and seek clarification from others. I have included three quotes that underline this reality powerfully. They come from three different continents and are representative of different disciplines and different political cultures.

- Amartya Sen, the Indian economist, philosopher and Nobel laureate says: ‘Public debates and discussions can also play a major part in the formation of values. Not only is the force of public discussion one of the correlates of democracy, with an extensive reach, but its cultivation can also make democracy work better.’
- David Tracy, academic and Chicago based theologian, writes: ‘Conversation has some hard rules: say only what you mean, say it as accurately as you can. Listen to and respect what the other says, however different or other. Be willing to correct, or defend your opinions if challenged by the conversation partner. Be willing to argue, if necessary, to confront if demanded and to change your mind if the evidence suggests it.’
- South African political scientist, author and academic, Tom Lodge makes the point: ‘The vigour of institutions like parliament, political parties and local councils as well as the political impartiality of public institutions depends as much on what happens outside and around them as on their inner life.’

All of these quotes speak to the subtlety and the strength of well thought through advocacy.

The late Senator Robert Kennedy in a speech at the University of Cape Town in 1966 captured much of the power and possibilities of advocacy. He made this speech at the height of the tyrannical apartheid era when all forms of advocacy to end the vicious system floundered and any change was but a distant dream. Yet it inspired many to keep doing small acts of advocacy believing that each act builds on and empowers the next, till breakthroughs occur. This must remain a lesson for us, never to give up, never to let go of our dreams for a better world and the belief that we can make a difference.

'Few will have the greatness to bend history itself, but each of us can work to change a small portion of events and in the total of all those acts, will be written the history of this generation. It is from the numberless, diverse acts of courage and belief that human history is changed. Each time a person stands up for an ideal or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope and crossing each other from a million different centres of energy and daring, those ripples build a current which can sweep down the mightiest walls of oppression and resistance.

COUNTER TRAFFICKING IN PERSONS OFFICE, LCCL /SACBC

Sr Melanie O'Connor HF

1. What is Trafficking in Persons?

Trafficking in Persons is a thriving underground industry that includes the recruitment, transportation and exploitation of men, women and children through various forms of coercion or deception. Movements and lifestyles of those who fall prey to this terrible crime are controlled by the traffickers; passports and identity documents are usually confiscated; victims get little or no pay for their work and they are often held under appalling conditions. The industry is said to be worth over \$32 billion worldwide per year.

Perhaps the term “Modern Day Slavery” gives us a deeper insight. It is true that in our post-modern liberal world we find it difficult to believe that slavery still exists; that people become the property of someone else, are bought and sold and resold, transported all over the world and their labour exploited; but this is human trafficking in essence. According to Nicholas Kristof and Sheryl Wudunn, far more women and children are shipped into brothels each year than were slaves from our continent shipped each year into slave plantations in the early 18th and 19th centuries.ⁱ

The term “New Slavery” is particularly apt for today’s context because of two variables unique to this modern period of slavery - in that modern-day slaves are (i) cheap and (ii) disposable.ⁱⁱ Already in the year 2000, Kevin Bales estimated that there were 27 million persons in slavery worldwide, with over 1 million being trafficked each year.ⁱⁱⁱ The U.S. Department of State reported that approximately 600 000 – 820 000 people were

trafficked across national borders each year, which does not include the millions trafficked within their own country. More than 60% of trafficked persons are women and girls and up to 50% are children. A good majority are trafficked for the sex industry. There is now a growing recognition of men being exploited for different kinds of labour besides the mines. The case of 96 Malawian men and boys trafficked to Johannesburg in 2019 and forced to work in a Chinese blanket making factory, is now going on. One boy remarked: “ Sister can you imagine ... we never saw the sun for two years –we could never even once go outside”.

Chinese triads, Russian and Bulgarian mafia, as well as other groups of organised crime syndicates, are said to be operating in South Africa. Victims reaching South Africa come from countries like the Czech Republic, Romania, Ukraine, Britain, Thailand as well as various African countries. In the case of young South African women being lured to Macau, China, all are given false job offers, promised luxury accommodation and payment between 10,000 and 20,000 dollars. Their passports are confiscated once they arrive in Macau. A 23-year-old woman reported to the International Organisation for Migration (IOM) that she had met nine other black, white and mixed-race South Africans aged 18-21 in Macau, who were forcibly prostituted. Roughly a thousand Mozambican girls are said to be trafficked annually, many being sold as ‘wives’ to people who work on the mines near Johannesburg. Unfortunately, children also get caught up in the trade.

N.B. Smuggling:

It is important not to confuse *trafficking* with the *smuggling* of people, the latter which refers to procuring or facilitating illegal entry into another country. Unlike people who have been trafficked, those smuggled – once in a country – are normally left to their own devices.

2. Creating Public Awareness about human trafficking.

We need to remind ourselves constantly of the fact that South Africa is a hotspot for Human Trafficking, hence the necessity for ongoing public awareness about the same. Being a major player in this industry, it is being used as a destination, transit point and source for Human Trafficking. Unfortunately, despite ongoing awareness, the lure of a better life with plenty of money is a strong pull factor for people in the Southern African region, hence the many vulnerable and not so vulnerable get caught in the traffickers' snare. There was the incident of a 30-year-old Afrikaans lady with two children who had just divorced her husband and then moved to the Gauteng branch of her work to be near her siblings. Shortly afterwards she was offered the same sort of job in Germany for almost twice the salary she was getting. She accepted. In the meantime, she received a childminder to help her along and was then given her air ticket- which included a stopover in N. Africa. The lady's brother was worried about the long journey for the two little children and eventually went out and bought her a straight though flight ticket. The next day the childminder disappeared after hearing of the new arrangements and there was no further contact from the supposed employers. What we are advocating here, in the young and not so young, is the development of a **critical sense** in one's life – be as clever as the traffickers/recruiters and know how they operate. A good thing to know is that traffickers will also use what you use – smartphones included.. and are quick to move in when one is in a vulnerable position.

Modus Operandi of traffickers:

a) Recruitment Phase

- Advertisements in the newspapers/media / elsewhere concerning false job offers that promise good salaries.
- The promise of a better life.
- Offering to pay transport etc.

- Bribes for go-betweens – a boyfriend, girlfriend or relative to lure him or her.

b) Transport Phase

- Can be smuggled or taken legally across borders.
- Held in transit house once across the border.
- Passports and documents confiscated by traffickers.
- Drugged, raped, gang-raped at the transition house to be broken in for prostitution if going to be used in the sex industry.

c) Exploitation Phase

- The small-time trafficker sells victims to anyone who needs them.
- Syndicates move victims around internally and internationally so they do not get used too friendly with the people they serve.
- Victims can be bought and sold over and over.
- Victims are made to work long hours to make a maximum profit for the trafficker.
- Stubborn victims are usually drugged.
- Victims are subjected to debt bondage
- Victims can be disposed of when no longer of use to the trafficker.

3. How traffickers control their victims.

Traffickers make use of *psychological and financial control* mechanisms that minimize or abolish the need for physical violence or confinement in some cases.

- *Debt bondage is popular.*

A debt is usually a high figure amounting to thousands of Rands that in no way relates to the actual expenditure incurred by traffickers. Traffickers add their own “fees” to the travel costs to create an even larger debt which robs the victims of their official identity and makes it difficult for them to seek help.

- *Confiscation of documentation and money*

Because the victim has no freedom of movement without proper papers and money, he/she is trapped. This makes it as evil and as terrible as the slave trade of the past!

Many of the victims come from a country where police are seen as a form of oppression and may be unwilling to approach the police for help.

Victims are often kept where they cannot communicate in their mother tongue and are kept away from anyone with a similar background. They are often prevented from making phone calls, sending letters or receiving any kind of communication.

- *Blackmail*

Traffickers exploit the victim's fear of police and their fear of being deported, as a means of control. There is also the use of violence and fear and the threat of reprisal against the victim's families.

4. Understanding what Victims of human trafficking often go through...

- Alone in another region or foreign country.
- Unable to communicate in the local language.
- Disorientated because of constant movement and relocation.
- Repeatedly abused physically and sexually.
- Forced to perform difficult and dangerous work for long hours.
- Made to face threats against themselves and family members.

5. Human trafficking: a Faith Context

My sheep were scattered over the whole earth and no one searched for them. So this is what the Creator Lord says: I myself will search for my sheep and look after them... I will rescue them from all the places where they were scattered on a day of clouds and darkness. I will bring them out from the nations and gather them from the countries, and I will bring them into their own Land. (Ezekiel 34:6,11-16).

Trafficked persons are very much like sheep “scattered over the whole earth”. Isolated from society their rescue needs to come from a third party. In John’s Gospel, Jesus tells us: I am the Good Shepherd... and lay down my life for my sheep (10:14). To join the fight against human trafficking is to join Jesus in His search for His lost and scattered ones. The Gospel promises that the work we do, to rescue and bring to safety the vulnerable and powerless, is work we do not do alone. Always we are joined by a God who has gone before us, who opens our eyes and leads us to His scattered children.

“I have no hands but yours”, Jesus tells us. In other words, *I cannot rescue them without you*. We turn our backs on this imperative at our own peril.

To accept this summons to search for the lost ones is to accept Jesus’ promise of Life. We collaborate with the **One** whose fierce love for the powerless is stronger than the evil hands into which they have fallen.

May we join this fight, and by so doing may we know again the life-saving vitality of grace.

¹ Nicholas Kristov&Sheryl Wudunn, *Half the Sky* (London: Virago Press,2010),12.

¹ Kevin Bales. *Disposable People* (Berkeley: University of California Press, 2000).8.

¹ Ditto

References:

- www.endhumantrafficking.co.za
- O'Connor Melannie HF. *The Church and Human Trafficking*. Signs of the Times. Series N.6. Cluster Publications Pietermaritzburg, South Africa.
- www.migrants-refugees.va - Pastoral Orientations on Human Trafficking.

PASTORAL PLANNING IN THE MIGRATION MINISTRY

Sr Maria de Lurdes Lodi Rissini, MSCS

Introduction:

Planning an effective “Pastoral Care for Migrants and Refugees” has to be integrated at the Diocesan, and Parish level, and is to include organizational structures, policies and practices. It has to be an inclusive way to promote the welcoming to all: host community and migrants and refugees. This is done through the quality of planning activities. From this perspective, the Pastoral Care Agent has to assist the community to develop positive self-esteem, healthy risk-taking, goal setting and negotiation when is needed.

Pope Francis describes how is possible to organize Pastoral Care in our communities/church:

*Dear brothers and sisters, our response to the challenges posed by contemporary migration can be summed up in four verbs: **welcome, protect, promote and integrate**. Yet these verbs do not apply only to migrants and refugees. They describe the Church’s mission to all those living in the existential peripheries, who need to be welcomed, protected, promoted and integrated. If we put those four verbs into practice, we will help build the city of God and man. We will promote the integral human development of all people. We will also help the world community to come closer to the*

goals of sustainable development that it has set for itself and that, lacking such an approach, will prove difficult to achieve. (Pope Francis, Message for the 105th World Day of Migrants and Refugees 2019).

The church through Pope Francis' teaching gives us direction on how to plan the Pastoral Care Ministry for migrants and refugees. The Pastoral ministry should be designed in a manner that addresses the spiritual and physical needs of individuals (host community and migrants and refugees).

1. Why Pastoral Care should be planned?

The planning activities are part of a community that want to grow together and share their lives in building a good relationship. It is possible because the Pastoral Care Agent has to ensure the effectiveness of the action. The pastoral agents have to spend some time with the community to clarify objectives, visualize the activities and identify the necessary resources.

The Pastoral planning exercise would involve some steps:

a) Reflection: Analysis of the reality...

In the first step, it is important to map the reality that is surrounding the Diocese/Parish and the lives of people in general. This will lead to the identification of the needs from a theological/pastoral perspective. Despite the temptation to give an immediate response to the pastoral needs, which often seems evident to pastoral workers, it is important to give sufficient time to analyse the reality in the context of migration. (Economic, Political, religious (ideology), gender, natural disasters...

b) How to identify the needs? The identification of needs is not a simple task. Sometimes there is confusion between "causes" and "consequences", leading pastoral workers to undertake "superficially" interventions, which do not solve the problems. Ex: the need to intervene in the needs of beneficiaries without creating dependency...

- c) How and where should we start?** We can start in our parish or diocese...
- To know the reality around us. To read the newspapers, books, available researches, census, etc. Interact with migrants, refugees and with those that are not from our own place. This will assist to understand better the reality, challenges and contribution of migrants, refugees and the host community.
 - Can organize a simple database through the interviews/assessments forms. It can assist to gather together all information and can be given visibility through graphics.
 - Teamwork is necessary to bring on board a better understanding of reality. For example, a good strategy is to be part of the Parish Pastoral Council (PPC's) and for the Diocesan level to report on behalf of the departments/secretariats meetings. Mostly the Dioceses in the Southern African Church have in place these structures.
 - Another suggestion is to identify the different ethnic groups and nationalities in the diocesan or parish territories and to understand their realities. It would assist in better identification of the beneficiaries (migrants, refugees, displaced persons, members of families left behind, potential migrants, returnees and receiving communities) and their special needs.
 - The interpretation of the gathered data would contribute to the identification of the problems and needs that Pastoral Care can be able to address. However, it is also a good tool for Pastoral care to have continuous updates to refocus the migrant ministry. The reality of migration is mutable and time is needed to review the way the church is responding.

d) To Church tradition and teaching:

It is recommended for the pastoral agents to study the historical tradition of pastoral care of migrants at all levels (local level, diocesan, national and international). The Magisterial documents related to human mobility is

providing relevant tools, reflections, indications and recommendations for the Pastoral Care Ministry of Migrant and Refugees. www.migrants-refugees.va

At the local level, the Pastoral Plan on the pastoral ministry of migrants and refugees should always consider the recommendations, statements and Pastoral Planning of the Bishops' Conference.

To read the migration reality with the “eyes of God” means that the Pastoral Agent should answer the challenges of migration with a spirit of faithfulness to God and an expression of love and concern for others.

Today's human mobility represents the experience of migration, exile and deportation of the People of Israel, recounted in the Sacred Scripture. Millions of migrants are engaged in a modern “Exodus” searching for the “Promised Land” in other countries. Welcoming the “foreigner” is a sign of civilization and hospitality is a “golden rule” in many cultures and religious traditions. “I was a stranger and you welcomed me,” (Mt. 25:35). This should lead us to prioritize the pastoral challenges at the assessment of the migration reality.

2. How to Organize/structure Pastoral Care?

To better organize the Pastoral Care in our Dioceses / Organizations it is necessary to identify the different roles of the pastoral agents and the appropriate structures that need to be established.

The second step is to establish indications and recommendations from the Church. This point should have clear **objectives, activities and budget**. Considering the type of activities that should be included in the plan, appropriate training should be organized for the pastoral agents.

a) Defining roles and responsibilities

Any good pastoral initiatives at the Diocesan Level should get the approval of the Bishop. The Diocesan Coordinator/ Pastoral Care should present the plan to the bishop together with the reports. To this extent, pastoral workers in the migrant ministry should produce their best efforts to have the pastoral care of the people 'on the move' included in the diocesan pastoral plan.

During the nineteenth century, Bishop John Baptist Scalabrini used to recommend to his missionaries for Italian migrants in the Americas, no pastoral action must be undertaken without the approval of the local Bishop. He should be regularly provided with relevant information and reports prepared by the missionary.

b) Some steps to assist in the drafting of the Pastoral Plan for Migrants and Refugees.

The following steps are suggestions. Please feel free to add anyone helpful to assist the Pastoral Care Agent to make their Pastoral Plan.

The author proposes a general scheme composed of **6 points**:

- 1) Description of the context of reference;**
- 2) Definition of objectives (general and strategic);**
- 3) Description of activities and elaboration of the timeframe;**
- 4) Identification of human resources and structures;**
- 5) Identification of partners;**
- 6) Elaboration of the budget;**

The Pastoral Planner should clearly state the pastoral needs and the action that it intends to be implemented as a response.

c) Drafting the Pastoral Plan... Activities

The description of activities would follow the order of the strategic objectives defined in the previous point.

- Each activity should be easy to achieve and should correspond to the objective and the results should be measurable.
- Then all the activities should be scheduled within the timeframe of the action (e.g. twelve months), indicating the envisioned beginning and end of each activity.
- The human resources and structures necessary for the implementation of the action should be identified. It is advisable to clarify the roles and responsibilities of the different pastoral staff and or volunteers, at least those who are to be full-time engaged in the action.
- As for the structures, it would be useful to distinguish between those already existing and those to be established either before or during the implementation of the action.

d) Networking with other organizations

It is important to formalize a network with other organizations. This can be through a formal letter or contract in partnerships with different entities (e.g. other Pastoral Care offices, Organizations, NGOs, government institutions and international organizations). Such partnerships should be identified and described (nature and extent) in the Pastoral Plan. The Safeguarding Policies have to be considered.

e) Budget

The elaboration of the budget should follow the pattern that is generally indicated by the accounting office of the Bishops' Conference/diocese/parish.

It would be useful to quantify (time, quantity and money) and include in the budget the services offered voluntarily and contributions in kind. Normally the Finance Office at Diocesan Level can give good input and training if needed to the Pastoral Care Diocesan Office.

3. The implementation of the Pastoral Plan.

The implementation of activities is the fulfilment of the pastoral planning exercise that we can understand as a Mission.

Some of the activities are general, while others are very specific to the group of beneficiaries (e.g. displaced persons, refugees, minors left behind, etc.) or the socio-cultural context.

The Strategies: In the context of pastoral planning, strategies mean the approaches or methods to be adopted, while undertaking different activities. The adoption of a gender-sensitive approach in the migrant ministry constitutes a very effective strategy.

The emigration of family nuclei and women is particularly marked by suffering. Women migrants, in general, are becoming more and more numerous. They are often contracted as unskilled labourers (or domestics) or employed illegally (EMCC, No. 5).

Assessments and updates: During the implementation of the pastoral plan it is advisable to have regular assessments of the different activities. Based on verifiable indicators, pastoral workers should verify as to what extent the outputs of the action have been meeting the declared objectives, and how the adopted strategies have been producing beneficial results. The beneficiaries of the action should always be included in the assessment process.

Drafting a new pastoral plan: While drafting a new pastoral plan, pastoral agents should always consider the indications resulting from the evaluation of previous actions. Moreover, special attention should be paid to new developments in the pastoral structures which may be required by changes in the migration scenario.

Pastoral Care for Migrants and Refugees is an invitation for all of us to build together as we are a passenger for this world. All pastoral actions are

equally important and they are complementary in the accomplishment of the mission entrusted to the Catholic Church. The Pastoral Care for Migrants and Refugees Ministry reminds local Churches of the principles of subsidiarity and co-responsibility, which should always characterize the relationships among them.

References:

1. Fabio Baggio, Pastoral Planning in the migrant Ministry. Scalabrini Migration Centre, Quezon City, Philippines, 2010.
2. www.migrants-refugees.va
3. Erga Migrantes Caritas Christi (*The love of Christ towards migrants*). Vatican City, 2004.
https://www.vatican.va/roman_curia/pontifical_councils/migrants/documents/rc_pc_migrants_doc_20040514_erga-migrantes-caritas-christi_en.html

Conclusion

Pastoral Care for Migrants and Refugees should include their dimensions: human, social, economic, religious etc. For the reason that migrants and refugees sometimes tend to feel excluded by host communities, they tend to self-exclude and self-discriminate from the community and form separated social networks. Because of their self-excluding nature, these networks may fan low self-perception. Pastoral Care intervention of empowerment through pastoral education, awareness and inclusion of local programmes should be done. The themes should include a Christian understanding of citizenship, home, social cohesion, identity and other themes that address the interest of migrants and refugees.

Pastoral Care should also focus on congregational mutual learning. This entails the creation of spaces for therapeutic, Reconciliations conversations between the host community and migrants and refugees. These conversations should engage in healing processes and Bible stories of family, hospitality and general life issues for purification. To establish a welcoming and protecting environment for all. Where all can feel included.

Pastoral Care should include a preparatory education for those who intend to migrate before leaving their country of origin. Before departing from countries of origin, migrants need to be made aware of the potential challenges that they may encounter and be equipped with basic life skills to cope as a migrant. This includes identifying churches spaces where they can worship and receive practical support. In this case, the Episcopal Conference needs to have a Pastoral Action Plan including special formation regarding the “Country of Origen and Country of Destination” Migrants and Refugees.

There is no formula for providing Pastoral Care for Migrants and Refugees in complex situations such as in the human mobility context. However, one important principle that should guide the Pastoral Care’s Agents is that the interventions should have a clear intentional public dimension to address

physical and spiritual needs. Empathy should be our attitude and skill required to effectively provide care within complex situations like migrant situations.

The different authors of this booklet want to thank all the Migrants, Refugees and host communities for the courage to put into practice the teaching of Jesus: “I was a stranger and you welcomed me” (Mt: 25, 35). May this information’s motivate all human beings to practice their love for one another as brothers and sisters.

Appendixes:

Prayer for Migrants, Refugees and displaced people

Rampe Hlobo SJ

God Almighty we pray for your people who, in this harsh and uncaring World, have known betrayal, lack of love, injustice and absence of peace.

May the pain they experience as a result of their separation from their families, their friends and their countries, be a reminder to us of the injustices prevailing in this world.

We pray, God Almighty, for the courage to help in whatever way we can, all refugees, asylum-seekers and the displaced people suffering all over the world. Open our hearts, Lord, to receive them, so that they may experience, through our support, your endless love and comfort.

Lord, we also pray for the courage to challenge in whatever way we can, the injustices that lead to their displacement so that, one day, they may be able to know justice, peace and stability in their countries. Amen

Prier avec les exilés

Rampe Hlobo SJ

Seigneur, nous t'implorons pour tous ceux et celles qui, dans ce monde dur et insouciant, connaissent trahison, manque d'amour, injustice et absence de paix.

Que l'attention à la souffrance qu'ils endurent parce qu'ils sont séparés de leurs familles, de leurs amis et de leurs pays nous garde d'oublier les injustices de ce monde.

Donne-nous, Seigneur, le courage d'aider, selon que nous le pourrons, tous les réfugiés, les demandeurs d'asile, les personnes déplacées. Ouvre nos cœurs, Seigneur, que nous sachions les accueillir. Qu'ils puissent percevoir, à travers nous, ton amour infini et ton réconfort.

Donne-nous, Seigneur, le courage de nous battre, selon que nous le pourrons, contre les injustices qui provoquent leur départ.

Qu'un jour, enfin, ils puissent connaître la justice, la paix et la stabilité dans leur pays. Amen

WELCOMING MIGRANTS AND REFUGEES

+Buti Tlhagale omi
10/02/2019
Durban
St. Henry's School
SECAM's 50th Anniversary

Today the Catholic Church in Southern Africa celebrates the 50th Anniversary of the Symposium of the Episcopal Conferences of Africa and Madagasca (SECAM). This forum is the embodiment of a collective aspiration to become one Catholic Church that embraces diversity and complementarity. But it also symbolises another aspiration of the people of the continent: the promotion of peace, unity, solidarity, economic progress and a freer movement of peoples.

Made in God's Image

Male and female, He created them. He created them both in His own image. We all belong to one Father who created us in His image. Now, we celebrate the feast of all nations to remind ourselves of that reality of a collective belonging. We celebrate the day of all nations because the nations no longer stand together. The image of our common belonging and common origins, is no longer visible. It is perhaps the long and arduous journey through time that has made us strangers to each other or even worse, enemies to each other? The truth is, today we human beings, we appear to have been made in the image of the biblical CAIN. We appear to be thirsty for each other's blood. We seem to delight in inflicting pain on each other.

Race, nationality, ethnicity, culture and religion – are the ideological walls we build in order to keep the unwanted people away from us. Do you remember the Berlin Wall. Now see the obnoxious wall in Bethlehem that

keeps the Palestinians at bay. Listen to the distressing debate on the Mexican-US border.

Listen to St. Paul writing to the Corinthians: He uses the analogy of the body: "God has formed the body together, giving all the more honour to the least members so that there is no bodily rupture and members are mutually concerned about one another" (1 Cor.12.24). This powerful metaphor acknowledges the rich diversity of members and calls for mutual-recognition and collaboration. But these words of scripture do not appear to have moved our hearts. They are regrettably like water on a duck's back. We are enjoined to embrace each other, to embrace the stranger with warmth because of the inborn love we possess in our hearts.

Compassion. A Defining Virtue of Christian Living

We ought to accept people as they are because they are people. We are moved by their plight and seek to be hospitable; to soften the blow of their predicament. That is what we would wish them to do for us were we to find ourselves in a similar situation. At any rate we show kindness and mercy because these virtues are the hallmark of being truly human and of being truly Christian. These are in fact the qualities of God Himself. For St. Paul, this is in fact the very essence of love. This is the power of God poured into our hearts by the Holy Spirit (Rom. 5.5). Reaching out to those who are in search of a home and in search of the basic necessities of life, is in fact showing love to a neighbour, "loving one's neighbour as one-self". One shows compassion to migrants and refugees because they are pushed from pillar to post. They are blamed for the tardiness and even incompetence of the local people. They are called names and castigated simply because they genuinely seek better opportunities for themselves and for their children.

Some of them have taken great risks in leaving their own countries. They have fled wars and persecutions. They have fled hunger and lack of opportunities. They have made the ultimate sacrifice a man or woman can

make for his or her family; to rise, to cross boundaries, to move into unknown lands and countries and seek to establish oneself. It takes a specific courage for a people to uproot themselves from their country of birth in order to find a home elsewhere. Migrants and refugees are thus the vulnerable people of our society. They are like the many women and children in our communities who bear the brunt of us abusive men. Migrants and refugees are the ones whom Christ calls the least of my brothers and sisters. "When you show any kindness to them, you show it to me" (Mat. 25).

Exploitation of Refugees

Many migrants and refugees remain fearful and vulnerable. Many employers exploit their predicament and do not pay them a living wage. They exploit especially those migrants and refugees who do not have proper documents. Many receive slave wages and are continuously threatened with arrest. Some are victims of corrupt police officials. And, as if that was not enough, many have been victims of xenophobia. When local communities go on a service delivery protest, they take out their anger on foreign nationals. They harass them, attack them, destroy and loot their shops. It is most unfair for migrants and refugees to be made scapegoats for the glaring shortcomings of the government and local authorities.

Mention must be made of the fact that there are those within the migrant community who give migrants and refugees a bad name. There are those who are heavily involved in drug-trafficking. Drugs have become a scourge in some of our communities. Thus the palpable anger of the communities is understandable. There are those migrants who are involved in robberies and human trafficking. These aberrations by some should not lead to the wholesale condemnation of the entire community of migrants and refugees.

The freedom of individuals to host migrants and refugees into their homes should be protected and promoted. But, realistically, local families are themselves under tremendous pressure because of the shortage of housing. The rapid expansion of informal settlements attest to the chronic shortage of land and residential areas.

It makes ample sense for the Church to promote welfare institutions that will be of service to migrants. The efforts of non-governmental organizations and other religious institutions need to be strengthened in their serious attempt to alleviate the plight of migrants and refugees. As Church, as Christians, we are concerned with relieving human suffering and enhancing human well-being on a large scale. Every person, irrespective of origins, deserves to be given a chance, a golden opportunity to make ends meet, to take care of his or her family. This is what the golden rule of the Gospel demands. The going out of our way to serving others. To do to others what we would greatly appreciate, if it were done to us.

Becoming Truly Human

The parable of the Good Samaritan cautions us “not to worry about who deserves to be cared for”. Rather, we should be concerned about (us, ourselves) becoming a person or persons “who treat everyone we meet with dignity, respect and compassion”. This is the heart of the Gospel message.

In the parable of Mary, Martha and Lazarus, Jesus says: “Mary has chosen the better part”, the listening part. Here the emphasis of Jesus falls, not on providing a service such as in the case of Martha, but the emphasis falls on receiving a gift, that is, receiving the other person who comes into our space. This person, this migrant or refugee, is a messenger of grace.

We are encouraged, not to see the migrant, the other unknown person as a threat, a rival, a competitor. No, we should see the other as a blessing in

disguise; as an opportunity or as an instrument that brings the best out of us, making us worthy of being called: human beings with a heart.

It has often been said that if we are not going to be helpful to others, at least we should not harm or hurt them. We should not burn their houses, destroy their properties, loot their shops or inflict pain on their persons.

Indifference. The Grave Sin of Our Time

The grave sin we commit in our times, is the sin of indifference to the plight of others. We walk on the other side of the road like the Priest and the Levite. We don't want to see, we don't want to know. We carry around with us hearts of stone. We measure the worth of persons by applying the misguided criteria of race, nationality, culture and religion. When we discriminate against our fellow-Africans, we betray our own humanity; we diminish our own honour and the worth as human persons. We obscure the image of God imprinted on our faces and in our hearts. The fact is, we are creatures that find our perfection only by establishing a relationship with others. It is this mutuality that makes us truly human. It is a mutual relationship that cuts across man-made boundaries, geographical frontiers, cultural fault-lines and racial divides. Person to person relationships irrespective of origin, language, race or culture, are generally warm and pleasant. Relationships are poisoned by a prejudice that is embedded in society.

St. Paul writing to the Galatians reminds us that we are all sons and daughters of God: "All of you have been Baptised into Christ. Therefore there is neither Jew nor Greek, slave nor free, male nor female. We are all heirs according to the promise" (Gal.3.26).

We must learn to bring down the walls among us, embrace each other and "do as God would want us to". This is the moral posture and attitude human beings should assume.

We owe this one to ourselves.

"All you nations, praise the Lord, for He is good".

LENT 2019

WELCOMING THE STRANGER

**+Buti Tlhagale o.m.i.
Christ the King Cathedral
Rite of Election. 2019**

We propose that the following words of Scripture be our guide as we begin our Lenten Season. These words of Scripture are read in the context of the harrowing living conditions of many migrants and refugees who have become the surplus people, the homeless people, the unwanted people, the 'scum' of the earth. We must also include in that context people who live in the informal settlements. They too are virtually homeless. Their living conditions are unpleasant and brutish. People have been painfully deprived of their sense of decency and God-given dignity.

Oh city of Johannesburg, what kind of a mother are you?

**Are you not supposed to be like a mother who gathers all her children?
"as a hen gathers her chicks under her wings" (Mt. 24.37).**

Oh Johannesburg, a city of gold! Some say you are the most beautiful city on the African continent.

No!

You used to be beautiful and attractive. But now you are broken and full of squalor.

The founding fathers and mothers of the city have abandoned you.

You are so cruel. You are so cold. You are unwelcoming.

You lack human warmth.

You are indifferent to the suffering of strangers.

You are indifferent to the pain of your own homeless, hungry and diseased children!

And the King will say: "For I was hungry and you gave me food; I was thirsty and you gave me drink; I was a stranger and you made me welcome; naked

and you clothed me; sick and you visited me; in prison and you came to see me (Mt. 25. 35-37).

These words of Scripture describe the conditions of many migrants and refugees. Many are unemployed because they do not have proper documents or even the requisite qualification and skills. They have unavoidably been reduced to being beggars. This has also exposed some to the temptation of criminal activities. Many migrants and refugees do not have a proper home. They live in overcrowded conditions. Some sleep in the open like animals. Where do they go for a shower? Where do they wash their clothes? What toilet facilities do they use? Look no further than the Ponte bridge at the corner of Saratoga Avenue and Joe Slovo. Hundreds of motorists pass there daily. The bridge has become home to many young migrants. Young men in their prime have become hobos, vagrants wandering aimlessly around the city, at times harassing motorists.

We have become numb to their harsh living conditions. We are insensitive to their plight. We see them as an inconvenience, and embarrassment, a nuisance. We prefer to forget that they too are human beings. They too are made in the image of God. They too are members of the Body of Christ. We accuse them of burdening our health system. We openly limit their access to our public health services. Stateless children of migrants have extreme difficulties in getting access to our educational facilities. We have hardened our hearts like our Fathers at Meribah and Massah (Ex. 17.7). We have turned a blind eye to the suffering of migrants and refugees, even to our very own people who are trapped in chilling poverty in the squatter camps.

We have just begun our Lenten Season. Scripture encourages us to do away with our demeaning attitude and disparaging, wicked words towards migrants and refugees in our midst. We are enjoined to give bread to the hungry and to relieve the oppressed (Is. 58.9). We should do fasting in order to share with those in need, especially the migrants and refugees. We should do penance for the gross negligence, indifference and at times

even our open dislike for the people we consider as strangers, as Foreign Nationals. Scripture reminds us that if we fail to take care of the needs of the migrants and refugees who are the least of the brothers and sisters of Christ, we would have failed to do a service to Christ Himself (Mt. 25.45). Service to the least of Christ's brothers and sisters is the condition for entering the Kingdom of God. We are strongly urged to treat others as we would like them to treat us. If we South Africans only treated each other as fellow human beings and ignored people from other African Nations, then what claim do we have to any credit? What good can we claim to have done? (Mt. 5.45).

The Season of Lent strongly encourages us to be compassionate as our Heavenly Father who is rich in mercy.

Jesus says:

*"Give, and there will be gifts for you:
a full measure, pressed down, shaken together, and running over,
will be poured into your lap; because the amount you measure out
is the amount you will be given back" (Lk. 6.38).*

Perhaps this should be a Lent of awakening. A Lent that frees us from the fear of the unknown, from the fear of the stranger. This Lent should be a time that frees us from our nightmares, bad dreams and superstitions about migrants and refugees that they have come to take our jobs and marry our daughters. Any why not? induku enhle igawulwa ezizweni!

This should be a Season of consciously building a welcoming community, of forging new friendships, new communities and new solidarities. A time to become truly human again by embracing the stranger in our midst.

I appeal to our charitable organisations: Catholic Women's League, Knights of Da Gama, St. Vincent de Paul, the Sodalities, to every Catholic – to turn their attention to the urgent needs of migrants and refugees. They are to us the angel in disguise. They are here to give us an opportunity to

become human again, to become kind, gentle, compassionate and loving human beings.

To the candidates who will be received at Easter, choose migrants and refugees as your favourable charity. Lessen the pain and anxiety in their lives.

Let us mount a Lenten campaign to appeal to the City of Johannesburg to build a shelter for destitute migrants and refugees so that they should sleep under a roof and not in the open.

Let us turn Johannesburg into a welcoming city.

Let this Lent inspire us to new heights of human solidarity.

VIOLENCE AGAINST MIGRANTS

+Buti Tlhagale o.m.i.

25/04/2019

Johannesburg

Nelson Mandele's Oath

When South Africans hurl insults and inflict violence on migrants, when they strip migrants of their belongings and set alight their businesses, they recklessly go against the solemn oath of Nelson Mandela, the revered father of the post-apartheid South Africa. Nelson Mandela made an oath that never again shall a human being be oppressed by another human being. This oath was proclaimed by Mandela on behalf of the New South African nation. He and many other leaders paid dearly. They sacrificed their lives so that South Africans might embrace freedom and walk tall among the nations. Mandela is an iconic symbol of peace. This symbol is inextricably associated with the nation of South Africa. He was the incarnation of the hope that South Africans would triumph against all the odds. Inflicting pain on migrants and refugees is a tragic betrayal of the sacred oath he made on behalf of the people of South Africa. He bequeathed South Africans the values of human dignity, reconciliation, peace, freedom and hospitality. It is hardly 25 years since his death, yet South Africans already trample his legacy underfoot and make a spectacle of themselves. The on-looking nations are no longer impressed.

Atrophobia and Memory Loss

If the unwarranted violent attacks on migrants and refugees are not brought to a halt, South Africans run the risk of becoming like the oppressors of the apartheid era. The apartheid system brutalised people.

It stripped them of their dignity, humiliated them and inculcated a sense of self-hate. Indigenous people were physically segregated and declared foreigners in their own country of birth. This treatment entrenched feelings of reventfulness and bitterness amongst the oppressed. At the launching of the 70's Group (April 2019) the former President of South Africa, Kgalema Motlanthe recalled a visit of Ali Mazuri immediately after the celebration of Democracy (1994). He said Mazuri prophetically warned that now that South Africa is free, South Africans should be careful not to become villains themselves. Hardly 25 years have passed, some of us South Africans do to our African fellow migrants what our former oppressors used to do to us. South Africans considered their former oppressors as monsters. Today we have become those very monsters. In meting out violence against African migrants we show open hatred. Such hatred against others impairs the dignity of the other and unfortunately reveals the brokenness of the South Africans themselves. The shameless physical attacks on migrants and refugees on spurious allegations that they have robbed South Africans of their jobs is simply disgraceful.

South Africans are put to shame by the migrants who simply show a superior quality of self-restraint in the face of such blatant provocation. A conclusion could be drawn that South Africans who indulge in xenophobia have simply not healed from the wounds of the apartheid era. They are still hurting and are now taking out their anger on their fellow Africans. The apartheid ghosts are ubiquitous. The pillaging and looting of the belongings of the migrants are unashamedly done by the youth while the adults stand by gloating. They received the stolen goods unashamedly into their homes with a misguided sense of triumphant satisfaction. The absence of a consciousness of guilt will continue to undermine the moral fabric of the South African society.

The Hardening of Attitudes

The skirmishes between migrants and locals happen intermittently at various places. They are unplanned. At times they happen on the back of

a service delivery protest over the lack of clean water, electricity, housing, pit-toilets, schools etc. On such occasions the anger and frustration of the local people at government's empty promises have tended to engulf migrants who live in the same neighbourhood as the protestors. These sporadic confrontations if they go on unchecked, are likely to set up a bad precedent. They hurt people who are involved in them, deeply. They are likely to lead to the hardening of attitudes between locals and migrants. Migrants who are currently the victims will one day seek to retaliate. It is not as if they have taken out an insurance for personal injury or for the loss of their belongings. Whatever they suffer or lose in the unplanned attacks is lost for good. Because these are mob attacks, very few people get arrested, if at all. The victims do not get to see justice being done. They then carry on with their lives burdened with the memory that they have been unjustifiably attacked. They now also have to entertain the fear that such attacks may erupt again in the future.

The Anti-Foreigner Sentiment

The xenophobic attacks reached a point where members of the diplomatic corps felt it necessary to request an explanation from the Minister of Foreign Affairs. As representatives of the African countries in South Africa they could no longer stand by while their compatriots are being attacked by local people for no apparent reason. The attacks on migrants cannot just be reduced to hooliganism. These attacks are patently fuelled by anti-foreigner sentiment. Hooliganism under these circumstances is an expression of the anti-foreigner sentiment. If these attacks continue unabated, tension between South Africa and other African countries will begin to show. Foreign governments expect the South African government to quell and diffuse the inchoate tensions brought about by the xenophobic attacks. They expect the government to protect all foreign nationals who live in South Africa. The migrants themselves expect to be treated with dignity, respect and equality. They do not need to be reminded time and again that they are outsiders.

The Contribution of Migrants

Migrants from Lesotho, Malawi and Mozambique have been involved in the mining sector for decades even though they do not have much to show for it. Migrants bring skills into the economy. Those who run businesses provide employment even to the local people. Many are involved in the informal sector of the economy. The contribution of migrants to the economy is significant. But they also contribute in other ways. Migrants bring along with them the passion to succeed, industriousness, cultural diversity, and sense of openness to the world as opposed to a narrow inward-looking nationalism and isolationism. Migrants display a rich cultural diversity in a form of customs, traditions, fashion, music and the arts. They are the bearers of the new religious movements which have swept South Africans off their feet. Finally, they demonstrate a strong virtue of courage to cross borders and to explore new possibilities in order to enhance their lives.

Migrants and asylum seekers demand that their dignity as human beings be recognized and that they be accorded the respect given to all persons. They frown upon being considered as foreigners or outsiders who deserve to be harassed, intimidated, punished and even threatened with deportation. Their desire is to be given a chance to find new opportunities and to live peacefully with their neighbours. If confrontations continue to dominate the relationships of migrants and the local people, South Africa should not be surprised one day when South Africans who live in different African countries are singled out, attacked or victimised because of the intolerance and resentment shown to migrants in South Africa. A fall out between South Africa and other African countries can only have disastrous consequences, hence the urgent need to dissipate tensions whenever they appear in the different communities.

An Appeal to Youth

Young people have invariably been always in the forefront of the struggle for justice. The youth of 1976 hastened the advent of democracy in South Africa. The Economic Freedom Fighters, a political party of young people, is a thorn in the flesh of the African National Congress. The Fees Must Fall movement of university students twisted the arm of President Zuma to authorise free university education for certain categories of students. The unplanned intermittent attacks on migrants and refugees are reprehensible acts of injustice. Such attacks are aimed at excluding and stigmatising migrants. Where then are the charismatic young people who would take the side of the oppressed migrants. Their silence is deafening. Their prophetic voices appear to have been muted at a time when their support and solidarity would have made a significant difference. The virtue of hospitality amongst South Africans is at present a scarce resource. They do not take kindly to Africans who share their skin-colour. The ruling party has a maxim: Bath'o pele (people first). Migrants are also human beings (bath'o).

RECONCILIATION BETWEEN MIGRANTS, REFUGEES AND SOUTH AFRICAN. A BIBLICAL PERSPECTIVE

+Buti Tlhagale o.m.i.

30 June, 2019

Love Your Neighbour

Prior to the elections of May 8th, 2019, during the electioneering period, some members of the public openly advocated that migrants and refugees be repatriated. Such sentiments of hostility are frightening especially in view of the fact that attacks on migrants and refugees have happened with such a “degrading frequency” (Pope John Paul II, Evangelium Vitae, no. 7.3). Attacks on migrants are a defiant rejection of God’s Commandment: “Thou shall love your neighbour as yourself”. Such attacks regrettably cast a dark shadow on the unsurpassable value of life. They speak to a tragic diminishing of the sense of God’s presence. They advance the culture of death. They render the people’s conscience obtuse.

Collapsing The Wall of Separation

As far as Christians are concerned, faith has a direct bearing on the attitude of people towards each other. Within the context of the conflict between migrants and the South Africans, St. Paul’s words are of particular relevance:

“But now in Christ Jesus, you that used to be so far apart from us have been brought very close, by the blood of Christ. For he is the peace between us and has made the two into one and broken down the barrier which used to keep (us) apart, actually destroying in his own person the hostility” caused by man-made geographical borders (Eph. 2.13-14).

Migrants and refugees through the death of Christ on the cross “are no longer aliens or foreign visitors” but members of God’s household (Eph.

2.19). And as members of God's household, they are family and therefore ought to be treated with the dignity they deserve. South African believers, are also members of the same household of God. It is therefore incumbent upon them to treat migrants and refugees as brothers and sisters. Migrants and South Africans stand as equals before God.

A New Fellowship

The celebration of Easter, of the Paschal Mystery, is a powerful reminder that the Cross of Christ abolished alienation and reconciled all people to God and to each other (Eph. 2.16). The triumph of the Cross is the reason for the collapse of the wall of separation. The rich fruit of that collapse is invariably described as a "new humanity", a "new fellowship", a "new creation", a "new solidarity", a "new family" and a "new body" with Christ as its head (Eph. 1.23; Gal. 6.15). When South Africans mount an attack on migrants and refugees they submit themselves again to the "yoke of slavery" of the apartheid years. They separate themselves from Christ and have fallen from grace (Gal. 5. 2, 4). The Letter to the Colossians describe this "new fellowship" as God's "chosen race" that "should be clothed in sincere compassion, in kindness and humility, gentleness and patience". "Bear with one another" and "let the message of Christ, in all its richness, find a home in you" (Col. 3. 12-13).

Unity in Jesus Christ

One of the major concerns of the Apostolic Church was the question of unity. The unity of Christians was paramount. On this question, there was no compromise. Through Baptism one becomes a member of the Body of Christ's Church (1 Cor. 12-13). This membership is based on conversion and on faith in Christ. This fundamental message of unity is repeatedly stated by St. Paul in his various writings: "There is neither Jew nor Gentile, for all are one in Christ (Gal. 3.11; Gal. 6.16, Rom. 10.12). René Padilla writes that this unity in Christ is "no mere spiritual unity, but a concrete community made up of Jews and Gentiles" (R. Padilla, p.75). What is

therefore desirable within the South African context, is a genuine, concrete unity between migrants, refugees and South Africans. South Africans themselves are in desperate need of unity. The divisions caused by apartheid still run deep.

St. Paul's Analogy of The Body

The importance of unity is illustrated further by the use of the metaphor of the body in the *Hymn to love* in Paul's Letter to the Corinthians (1 Cor. 13.2). The Corinthian Church was torn apart because some of the members claimed to possess spiritual gifts that were superior to those of others. This claim apparently enhanced their status within the church community. Within the South African community, the division between migrants, refugees and South Africans is fuelled by the unfortunate belief that migrants are here to take advantage of the benefits of housing, health-care, employment and education at the expense of the local people. Now St. Paul uses the analogy of the body in order to contradict such an erroneous belief. He says the metaphor of the body simply highlights the diversity and collaboration of the different members of the body: "God has formed the body together, giving all the more honour to the least members so that there is no bodily rupture and members are mutually concerned about one another" (1 Cor. 12. 24-25).

Migrants and refugees by virtue of the harsh and even inhumane conditions in which they find themselves, are the least members of the body who deserve attention. The parable of the Last Judgement drives the message home. All the nations will be assembled before the King and he will say: "Come, you whom my Father has blessed, take your heritage, the Kingdom prepared for you since the foundation of the world For I was a stranger and you welcomed me, - in so far as you did this to one of the least of these brothers of mine, you did it to me" (Mt. 25: 32,35,40).

The metaphor of the body represents an appeal to South Africans to break the chains of sexism, ethnicity and exclusive nationalism. It is an appeal

that the continent of Africa be seen as a home of all the people who live on it. South Africans have to come to terms with the reality of interdependence among African nations. The harsh realities of war, persecution, disease, persistent poverty and corruption experienced in other countries, are destined to have an unavoidable impact on South Africa. South Africa is not an island nor are its borders hermetically sealed.

If South Africans only loved South Africans and excluded migrants and refugees, what good would that serve? Incidentally South Africans do not necessarily love themselves. They face serious challenges. Violent service delivery protests irrupt from time to time and leave in their wake the destruction of property, namely schools, clinics, libraries, buses etc. Levels of violent crimes are unacceptably high: murder, rape, femicide and gangsterism. The cancer of corruption has weakened the entire fabric of society. Unemployment (27%) and the resultant poverty have given rise to high levels of frustration and despair among the poor. The country's leadership is at its wits end. South Africa is currently a society angry at itself.

Notwithstanding the bleakness of the image that emerges, it is morally reprehensible to discriminate against migrants and refugees who are equally trapped in a situation of dire need. They are worse off than the local people because they are in a strange land. They do not have the fortune of depending on the network of friends and the extended family. It is against such a background that the parable of the Good Samaritan calls on each one of us to "become a person who treats everyone encountered – however frightening, alien, naked or defenceless – with dignity and compassion" (*Johnson, L. The Gospel of Luke, Sacra Pagina, 1991*). In spite of the hardships faced by South Africans, it is still demanded of them to be humane and charitable. Pope Benedict XVI quotes Paul, the Apostle of the nations: "even if we speak the tongues of men and angels, and if we have the faith to move mountains, but are without love, all will come to nothing"

(Pope Benedict XVI, Letter to the Catholic Church in the People's Republic of China, no. 6, 2007).

There has to be a change of heart among South Africans and a deep desire to be welcoming. There is an urgent need to accept the reality of the migration of people not just here in Southern Africa but the world over. It is imperative that suspicions be dissipated and divisions overcome. From this imperative flows a radical consciousness of the unity of those who belong to Christ or alternatively those who are genuinely human at heart. Faith leads a believer to promote solidarity, mutual acceptance and mutual support.

Pentecost and Inclusivity

Again René Padilla points out that “loyalty to Jesus Christ relativized all the differences” (R. Padilla, p.76). Thus on Pentecost day the Gospel was preached in a variety of tongues to people from the four corners of the world. “And they were all excited, because each one of them heard the believers speaking in his or her own language” (Act. 2.6). The thrust of the message of the event of Pentecost as far as migrants and refugees and South Africans are concerned, is that they essentially belong to the one body of Christ, one community of faith in spite of their race, place of origin, colour or social standing. The pulling together of resources by the Pentecost people continue to offer a compelling model to divided communities that they do have the potential to overcome their differences and work collaboratively for the promotion of all the people. For this to happen, St. Paul insists that the warring parties need to change their behaviour “modelled on a new mind”. This is the only way to discover what it is that God wants, what is the perfect thing to do (Rom. 12.2). A new mind, accompanied by a new attitude and a new set of values are what is needed in order to bridge the gaping divide between the migrant community and the South Africans.

The Power of The Spirit

Scripture reminds us that the role of the Spirit is multifaceted. It is the Spirit that pours God's love into our hearts (Rom. 5.5). It is this love that should serve as the basis of unity amongst the different people of God. It is this love that is meant to repair the rift between conflicting parties in society. Regrettably there is resistance to its influence and invitation. Hence the need for conversion at the very instigation of the self-same Spirit. It is by the power of the Spirit that obstacles and prejudice are overcome. It is the Spirit that enables people to reach out to each other, to support each other, to heal each other. The Spirit gives life and sustains fellowship (Pope John Paul II, *Dominum et Vivicantem*, no. I). "Though indelibly different we are", the Spirit gives a new identity to all the people who come from the different parts of the African continent (Bellah, p. 304). Taking after Mary, all the believers are invited to treasure and to ponder the role of the Holy Spirit in our daily lives. The effects of our faith ought to manifest themselves in our relationships with others (Lk. 2.19).

The gifts of the Spirit are intended to be put into practice for the benefit of the community. The gift of sharing in Christ's body, the gift of unity, imposes an *obligation* on all the recipients "to make that unity a living reality" (Gaybba B. *The Spirit of Love*, p. 183). The gifts are to be put to good use in order to enrich the community and not to be hidden in the ground (Mt. 25.18). Brian Gaybba rightly points out that the gift of unity requires "a visible expression" (Gaybba, *op cit.* p. 183). Reconciliation and peace between the migrants and South Africans requires a visible expression. The initiative needs to be taken by South Africans for they are the ones who threw the first stone (Jn. 8.7). Attacks on migrants has been a direct assault on the human dignity of migrants. This has been a trampling underfoot of the commandment to love one's neighbour as oneself. This calls for a reparation by both individuals and their communities. A symbolic gesture of making amends at national level would go a long way towards assuaging the aggrieved. A public apology

accompanied by a concrete action of restoring the dignity of migrants would be the appropriate thing to do. The fact that it has not been done, speaks to the hesitation and ambivalence of the South African leadership.

To many migrants and refugees, while they were still in their homeland, the words of the Book of Exodus were music to their ears: "I have seen the miserable state of my people in Egypt. I have heard their appeal to be free of their slave drivers. I mean to bring them up out of that land to a land rich and broad, a land where milk and honey flow" (3. 7-8). This is how the word of mouth advertised South Africa. But now migrants who have been harassed, arrested and detained for not having identity documents and those who have been maliciously attacked in their neighbourhoods, tell a story not of milk and honey, but of humiliation, insults and name-calling.

The above description of contempt, pain and suffering is contrary to the role of the Spirit among us as described in the Letter to the Romans: "The Spirit you received (both migrants and South Africans) is not the spirit of slavery bringing fear into your lives again. It is the Spirit of sons and it makes us cry out 'Abba, Father!' (Rom. 8. 14-15). Both migrants and South Africans have received the Spirit of *adoption*. Thus by the power of the Spirit we are made members of one body, children of God, "heirs of God and co-heirs with Christ, sharing His sufferings so as to share His glory" (Rom. 8.17, Kasper, W. *Harvesting the Fruits*, p. 24).

Hardships. The Plight of The Poor

The conflict between migrants, asylum seekers and South Africans is at the instigation of the latter who feel frustrated and disappointed by their own political leadership. The pain and suffering of South Africans stem from their craving for land, housing, employment and education for their children. Abject poverty has become a formidable barrier to human progress. And so, migrants cannot be made the scapegoat of the shortcomings of the South African State. The conflict between migrants and South Africans is a case of the poor fighting the poor instead of forging

bonds of communion and solidarity among themselves with the explicit aim of overcoming their common predicament. Poverty and deprivation are not a matter of fate. Such conditions can be reversed by a collective human effort. The pain and suffering of both the migrants and the majority of South Africans, should perhaps, from the viewpoint of Scripture, be seen as helping “to make up all that has still to be undergone by Christ for the sake of His body, the Church” (Col. 1.24).

Most migrants and refugees, given the hostile environment they find themselves in, in South Africa, can genuinely identify their negative experience with that of the Apostle Paul when he says: “Hard-pressed on every side, we are never hemmed in; bewildered, we are never at our wits’ end; hunted, we are never abandoned to our fate; struck down, we are not left to die” (2 Cor. 4. 8-10). The suffering of migrants at the hand of their fellow African brothers and sisters can only strengthen their resolve to overcome the odds. David Bosch has this to say about such a challenge:

“To be a stranger and at the same time at home in another society, to become part of another country and people, to surrender the ties with home and family, to learn another language until it becomes your own, to identify with the struggles and needs of another people” – is a true test of the mettle of the migrants and refugees (Bosch, D. A Spirituality of the Road, p.24).

Reliving The Nightmare

Some of the migrants and refugees have had to experience the indignity of bribing their way through the border-posts in order to enter South Africa. As if that was not enough, they have also had to queue for weeks on end, sometimes sleeping in the open, in order to apply for the requisite documents. They were compelled to pay bribes in order to jump the queue. They jostled against each other like cattle. Many struggled to find accommodation upon their arrival. This undignified and virtually hostile

reception was for many a prolongation of the nightmare which pressurized them to leave their countries of origin in the first place.

Migrants Teach by Example

In spite of the overwhelming challenges, most migrants and refugees do not travel empty handed. They do not come cap-in-hand begging for hand-outs. Au contraire, they come bearing gifts. The decision to leave one's homeland under trying circumstances testifies to one's courage. Migrants are courageous for they do not know what is in store for them in a foreign country. They are highly motivated because they seek to change their life-situation for the better. They have a positive attitude because they bank on succeeding. They are highly committed for the sake of their children. They are hard-working. They live by the sweat of their brow. Sometimes they work for months without pay in both the education field and in the health services. They persevere and are patient. South Africans are known to threaten to look for another job if not paid on time. Migrants walk an extra mile. Their generosity makes them vulnerable. Mean employers tend to exploit their availability and commitment. Migrants contribute to the vibrancy of the economy. Now these gifts, these spiritual qualities or these fruits of the Spirit are intended to enable men and women to make a meaningful contribution to society (1Cor. 12.8-10). The gifts of the Spirit are given to men and women inside and outside the Church. South Africans have been equally endowed with these gifts. Harnessing the gifts of all people can only bode well for the entire society. Gifts build. Bickering destroys and undermines the project of human development. "If you go snapping at each other and tearing each other to pieces, you had better watch or you will destroy the whole community" (Gal. 5.15).

South Africans have regrettably proven themselves to be poor hosts. This is so in spite of the fact that many South Africans were strangers and aliens in different African countries. Alain Thomasset writes that "our ability to accept and welcome the other fundamentally depends on our own sense of having been welcomed ourselves in our vulnerability" (Thomasset, A. p.

41). South Africans have a strain of memory loss. Those who are today in leadership positions were once in exile and enjoyed the hospitality given to them. They used to condemn apartheid abuses from the rooftop but now there is a deafening silence concerning afrophobia in their own country. There was a time when South Africans hailed some African leaders: Nkrumah, Lumumba, Haile-Selassie, Kaunda, Nyerere, Machel, Nujoma, Kenyatta, even Gaddafi. Today that adulation has just about disappeared and the people from the countries of these former leaders are not given the respect they deserve. South Africans have simply forgotten that they once enjoyed hospitality in other countries. South Africans were once treated with disdain in their country of birth. But now we are treating others with a similar disdain.

Discrimination against migrants and refugees does not only show itself during public confrontations. It is far more insidious than that. Discrimination is palpably felt in hospital and school admissions. Foreign nationals are expected to pay more or are simply turned away. Banks make it difficult for migrants to open accounts. The force of prejudice is felt by African migrants in their everyday life. And this is totally reprehensible for it defies the principles of fairness, of equal treatment and of human dignity.

In the past, South Africa took great pride in the work of The Truth and Reconciliation Commission in spite of the controversy surrounding some of its findings. The work of the Commission is credited with having averted an open civil war between the different races in a post-apartheid South Africa. However, the legacy of The Truth and Reconciliation Commission, its “never again” motto, does not seem to have had a profound impact on the entire South African society. Otherwise how do you explain the animosity, the open and at times subtle hostility towards migrants. South Africa used to be praised for its gallant spirit of reconciliation. But that reputation is beginning to wear thin because of the visible anti-foreigner sentiment. What is the point of having one of the best Constitutions in the

world and yet fail deplorably as a country to manage an ostensibly incipient ugly conflict between migrants and South Africans? This conflict needs to be stopped in its tracks before it causes incalculable harm to the country's reputation.

Scripture says Christ "made peace by his death on the cross" (Col. 1.20). As followers of Christ we have a task to advance the recognition of diversity and to acknowledge as our calling the promotion of the dignity and sanctity of every person.



Southern African Catholic Bishops' Conference