



home affairs

Department:
Home Affairs
REPUBLIC OF SOUTH AFRICA

Scribe: Dr M F Belvedere

MINUTES OF THE STAKEHOLDER CONSULTATION PERTAINING TO THE FUTURE OF THE CAPE TOWN REFUGEE RECEPTION OFFICE
VENUE: DHA PROVINCIAL OFFICE, BARRACK STREET, CAPE TOWN
DATE: 05 DECEMBER 2013
TIME: 10H00 TO 13H00

1. OPENING AND WELCOME

The meeting started at 10H15.

The chairperson, Mr. JW McKay, DDG: IMS, opened the meeting and welcomed all stakeholders present.

2. ATTENDANCE REGISTER/APOLOGIES

IN ATTENDANCE - DHA	APOLOGIES
Mr JW McKay – DDG: IMS, Chairperson Mr. BT Mavuso - COO Mr. Y Simons – Provincial Manager: Western Cape Mr. D Erasmus – Chief Director: Legal Services Mr M Madumisa – Acting Chief Director: Asylum Seeker Management Mr S Mogotsi – Director: Litigation Dr MF Belvedere- Director: Office of the DDG: IMS	

<p>Ms. D Brinkhuis – PA to Provincial Manager: Western Cape Ms. T Ndlovu – Acting Centre Manager: CT Refugee Reception Office</p>	
<p><u>IN ATTENDANCE - STAKEHOLDERS</u> Mr D Cote, Strategic Litigation Programme, Lawyers for Human Rights (LHR) Ms R Amit, Senior Researcher, African Centre For Migration Studies (ACMS) Ms T Schreier, Attorney, UCT Refugee Rights Clinic Mr P Kavuma, Cape Town Office, UNHCR Mr K Bakwa, Protection Associate, UNHCR Cape Town Ms D Carson, Senior Social Worker, Cape Town Refugee Centre (CTRC) Mr F Mukole, Social Connector, Cape Town Refugee Centre (CTRC) Mr T Sinthumule, Advocacy Officer, Consortium for Refugees and Migrants in South Africa (CoRMSA) Mr J Chapman, Attorney, UCT Refugee Rights Clinic Mr A Mohammed, Chairman, Somali Association of SA (SASA) Mr W Kerfoot, Attorney, Legal Resources Centre (LRC) Ms M Ackermann, Advocacy Officer, Scalabrini Centre of Cape Town Mr S Carciotto, Acting Director, Scalabrini Centre of Cape Town Ms S Mwamba, Administrator, Unity for Tertiary Refugee Students (UTRS) Mr A Cloete, Director, Friends from Abroad Mr A Muteti, Paralegal Advisor, PASSOP Mr G Kalombo, Vice Coordinator, Voice of Africans for Change Mr U Abdulkadir, Advocate, ADRO Mr A Mbayagu, Pastor, ADRO</p>	<p><u>APOLOGIES</u> Ms Roshan Dadoo (CoRMSA)</p>

3. PURPOSE OF THE MEETING

The chairperson welcomed all present and provided a brief background to the consultation. Mr McKay introduced himself and indicated that he would be chairing the session of consultation with stakeholders. He requested all participants to introduce themselves.

The chairperson gave a brief history. He indicated that the CT RRO had been in existence since 2000 and that it had operated initially at Customs House in Foreshore, Cape Town. The RRO was then moved to Airport Industria (Nyanga) and then to Voortrekker Road in Maitland. At each of these locations, problems arose as a result of the large number of asylum seekers who sought assistance. At all of these venues mentioned, DHA was hounded out by the courts who found that the operations at these offices were a nuisance factor and that they hampered businesses around those areas and that we should look for alternate offices. We moved the office out of the city centre, to the periphery and had similar problems. We moved it back to Maitland and then had similar problems and then the court decided to close the office down at all of these venues. This has not only happened in Cape Town. It happened in PE and Gauteng. It also happened in Johannesburg, where the office was forced to close because businesses complained and argued that the operation of our centre led them to lose clients and profits.

When the RRO was in Nyanga, its operation was found to be in violation of applicable zoning by-laws and to be an unlawful nuisance. It often starts with the nuisance factor and then it moves to the issue of zoning violations and then to being forced to close operations. This led the DHA to relocate the office to Voortrekker Road in Maitland. However, problems of a similar nature arose with the Maitland office (Voortrekker Road case 2010). The Court found the operation of the RRO at the Maitland premises to be an unlawful contravention of the zoning scheme and interdicted the DHA from continuing with its operation. This interdict was suspended for six months subject to the DHA making an application for the amendment of the land use restrictions applicable to the property where the RRO was housed. The Court also found the operation of the RRO to constitute a nuisance and ordered steps to abate the nuisance. The Court shut down the operation on 03 May 2010. However, DHA did not close down the premises in Maitland as ordered by the courts. First, it sought to find alternative premises and to get the office running. There was a commitment by the DHA to continue with its operations there and assist clients who were settled in the Western Cape. The RRO continued to operate out of Maitland until 29 June 2012.

On 7 May 2012, DHA held a stakeholder meeting to inform stakeholders about recent developments at the RRO in Maitland, especially as they concerned the notice of termination of the lease received from the landlord of the access road. Upon termination of the lease, the owner of the access road instituted eviction proceedings. Stakeholders were invited to provide proposals and inputs. From the minutes of the meeting it appears that the purpose of the DHA meeting was to consult and inform stakeholders of current challenges and not to close the office. The DHA's intention was to continue to service its clients at Maitland and come up with a strategy on how and where to service clients in the event of possible closure of the office.

Another stakeholder meeting was held on 8 June 2012, where DHA informed stakeholders that negotiations with the landlord in respect of the access road had failed and therefore that the Maitland office would close on Friday 29 June 2012. As a result of this, stakeholders were informed that starting on Monday 02 July 2012, all new asylum applicants would need to apply at other RROs in the country. However, persons who had applied for asylum in CT would be allowed to have their cases finalized (including being given the necessary extensions of s22 permits) at Customs House.

In response to the court order and the eviction proceedings instituted by the owner of the access road upon termination of the lease, the DHA sought to make alternative arrangements to assist existing clients whose cases had been lodged and were pending in Cape Town.

Litigation then started, courts made findings and it went right up to the Supreme Court of Appeal (SCA). SCA directed the DG of Home Affairs to make a fresh decision as to the future of the CT RRO. Prior to making any such fresh decision, the DG must engage in a consultation with stakeholders. According to the ruling of the SCA, the DG cannot properly carry out his functions (i.e. establish/not establish an RRO) without obtaining the views of organisations representing the interests of asylum seekers. The decision by the DG would affect asylum seekers. It is necessary to consult asylum seekers/organisations working with them to get the full perspective. Such a perspective, according to the SCA, is of obvious importance in reaching a rational conclusion as to whether or not an RRO in Cape Town is needed. This consultation represents, then, a genuine invitation to stakeholders to give advice and a genuine receipt of that advice by the Department in the making of a decision on the future of asylum seeker management in the Western Cape.

In the submissions that were received, particularly that of the UCT Refugee Rights Clinic, a pertinent comment is made on Page 1, namely: "it is regrettable that DHA asks for a series of questions in the light of the possible future closure but does not address its remaining open and inviting comment on that. It is sincerely hoped that this does not suggest that the decision to close is already made, as it appears to imply".

The Chairperson clarified that the decision is not already made. He stated as follows: The invitation (Para 1, section 1.1) asks participants to submit comments and proposals on the need for a full-fledged RRO in CT since the RRO has been de facto closed to new applicants since June 2012. We are open to your views and we are inviting you to make representations on that. It is not about the closure of the Centre, but if there is a need to do that, we need to consider your advice and inputs. A fresh decision is called on by the SCA. We are here with open minds to get your inputs on these matters that will assist us in making the decision on the future of how we manage asylum seekers and refugees in the Western Cape. It is with sincerity that we sit here and consider your submissions. I just wanted to clear the air about that. We are not going through the

motions for the purpose of complying with the SCA. We are genuinely consulting you so that we can make a decision in terms of where we are moving with asylum seeker management in the Western Cape.

There were a number of issues raised in the LRC submission, which also represents Scalabrini and Passop, which should be addressed at the outset so that the air can be cleared.

1. Existence of a policy to relocate offices to the borders: There is no policy around that. We have a Refugees Act that is clear. The DG acts within the parameters of that Act, which gives him the power to be able to open and close offices where they are needed/not needed. As you have recognised, the DG can take that decision. This was also amplified by the SCA decision. This can be done as long as it is rational to do so. There is therefore no such policy that says that we need to open up offices near the borders.
2. Cancellation of lease agreement: Maitland office was closed by the courts. We find it irrelevant whether you need to have sight of the lease agreement or any other agreement with the owners of that particular building. It is also important to mention, so that you can see our *bona fides* in all of this, that the Maitland premises had two buildings. The building at the back that was given to us was a temporary site where we dealt with clients coming in. There was an area in the front that was meant to be developed as a fully-fledged RRO, custom-made for our processes at an RRO. We never got to that because before we could even get to that development, the courts said that we needed to close that office. There was always a thinking of having an office in Maitland at that particular site. It probably would have continued if we had not had a problem of being a nuisance factor and the businesses in that area complaining about our operations at that centre.
3. Para 48 of LRC submission - attempts made by DHA to locate suitable premises since June 2012: No other premises have been analysed or looked at since the DHA has been awaiting the finalisation of the court process. We started litigation – there was a *de facto* closure – so we did not look for other premises and consult, because we were awaiting the outcome of court processes. DHA is also of the view that the consultation should be undertaken first to inform the decision to be made. Thereafter, the DHA will make a decision on the future of the Cape Town RRO and the outcome of this process will guide future actions.
4. Assertion that should people be requested to go to their offices of application such as in Pretoria, or to northern offices to apply, there will be an overloading of those offices and an inability to deal with those applications. To that we answer and say that should that happen, the DG would ensure that there are enough human resources in those offices to be able to do the work and to process the applicants coming to those offices.

I thought I should deal with those matters at the outset to give you some answers to some of the issues that you have raised in your submissions.

The Chairperson then explained the process to conduct the meeting. He stated that each organisation or stakeholder will have an opportunity to give oral submissions, either based on the written submissions that you have or not. Each organisation will be given 15 minutes within which to make oral submissions to be considered.

The COO added that when each person speaks, we request that he/she say his or her name for the purpose of the record.

When asked by the LHR representative whether minutes were being taken, the Chairperson informed the meeting that the proceedings were being recorded and that minutes were being taken.

Preliminary comments: William Kerfoot, Legal Resources Centre:

Before he embarked on his oral submissions, Mr. Kerfoot addressed points raised by the Chair in his introduction. He argued that an emphasis on the courts' decisions and the suggestion that RROs had been hounded out by the courts was not appropriate. He claimed that it was not the courts' problem if DHA fails to apply for appropriate zoning, to identify appropriate premises and to take the necessary action to reduce nuisance. He continued verbatim, thus: I have been informed, it might be hearsay – I do not know if it is correct, that the UNHCR has offered assistance with queue management and logistics and that invitation has not been accepted. Further, to say that the notice of termination and similar documentation related to Maitland is irrelevant is not accurate. Now, it might not be relevant, but it was not irrelevant at the time because then, as NGOs we were assured by DHA, in a presentation made by Mr. Symons, that the only reason for calling the first meeting was to consider how to deal with the fact that DHA had allegedly received notice. Various suggestions were made by stakeholders, which do not appear to have been explored by DHA. It may not be relevant now, but it was relevant in so far as good faith is concerned in May last year. More importantly, despite the court's hounding out DHA out of its premises, DHA had managed to stay in those very premises without incident until two years later. Therefore, it did appear a little opportunistic to rely on an apparent termination of the lease. It would be important for the court to see transparent behaviour on the part of the Department. We called, both in writing and in terms of Rule 53 (Court Rules), for disclosure of the documents on which decisions had been taken. We did not get a full response. It would be nice, in your terms, to have open cards played all the time, whether they are directly relevant now or not.

I am delighted to hear that the matter is being approached *de novo*, even though the letter, as UCT has pointed out very trenchantly, implies a wish at all costs to terminate the CT office. I presume that the process, in terms of proper consultation, will take some time and that stakeholders will not be limited to a meaningful engagement of 15 minutes each. Again, in light of your comments, Mr Chair, that there has been no attempt to locate new premises, we would hope that this would now be embarked upon, now that the courts' have spoken, and we look forward to receiving information about progress in that regard.

As far as overloading of the centres is concerned, it has been a problem since before 2002 at every centre. I am afraid that capacity has only been achieved in very limited cases. A very clear example of that is the Durban office. What has been apparent is that where the Department is intent on succeeding in a process, it has done so very well. With respect, the Zimbabwe dispensation did not take a lot of trouble. In Cape Town, the Zimbabwe dispensation worked like a charm in a satellite office. Why can't that be done for refugees? You [Chair] are correct that the DG has the right to establish/disestablish offices, subject to conditions. In fact, we would recommend that a further office be established in the Western Cape. People do not need to come only to the centre of Cape Town. We propose that further offices, or a further office, be established in the Cape Town metropolitan area. However, if the DHA were to seek to provide an office in Stellenbosch, or Worcester or Saldanha Bay that would resolve many problems.

Submission (LRC) W Kerfoot:

As we indicated in our submission, we think that the closure of the Cape Town office is in breach of the Department's duties and obligations both in terms of international instruments and the Refugees Act. For example, the UN 1951 Convention says that refugees have the right to choose the place of residence within the host country. That is clearly being breached by the proposals. Cape Town and the Western Cape, whether the Department likes it or not, is an area to which asylum seekers and refugees will migrate. The proposed system is inimical to that. To add to Para 7 of our submission, we admitted the fact that in order to lodge an appeal, a person must attend to the office not to get the date of appeal but to be told to come back to the allocated date in a future date. This is a duplication that adds to the burden placed on asylum seekers and refugees. The history is that it takes years for asylum applications to be decided. It has taken years and it will continue to take years – whatever arrangements are made by DHA. We must face reality and reality must be dealt with appropriately, which is not to seek to close the asylum offices which have been struggling over these years to reduce the period.

Again, we submit that the CT office should only be closed if it is objectively necessary. It is not objectively necessary. The Cape Town office was the second busiest office in the country and it will continue to be that. It would be appropriate to provide for further offices. It is undeniable that asylum seekers and refugees, even if not considered by DHA to be genuine refugees, they are people who are usually desperately poor and desperately vulnerable. A system to address the mixed migration flows from SADC would resolve many of the difficulties, would enable the CT Office to remain functional and to do the work that the Department is obliged to do in respect of asylum seekers and refugees.

Throughout this long process, and despite some crocodile tears shed by the Department in its answering papers, the fact is that the human and humane interests of a desperately vulnerable population have not been taken into account at all. One might as well be talking about television licences in these enormously important issues of thousands of people having to make repeated journeys many thousands of kilometres, losing their work, endangering their health and their rights and those of their families.

The echo – UCT talked about an echo - is of the Group Areas Act, where a conservative judge who could have found differently, who regarded himself as bound by a sovereign parliament, said the Group Areas Act represents a colossal social experiment and a long term policy. It necessarily involves movement out of group areas of numbers of people throughout the country. This is not the kind of approach that a democratic constitutional state should take.

Chair, there was an effort, with respect, in the papers to say that somehow miraculously in May/June/July 2012 there was no one coming to CT to try to get new permits. There are still people knocking on our doors and those of other stakeholders every day. These are people who are now vulnerable to arrest, detention and deportation. It is a fiction that there were no asylum seekers in the Cape who had not yet approached the RRO during that period. It is a fiction to say that there are none here now. The DHA has used the phrase 'general undesirability' about operating an RRO in the CT metropolitan area. Judge Rodgers correctly and trenchantly said: administrative inconvenience is not an excuse. It does not trump the rights of asylum seekers or the duties of the Department.

With respect, too much stress has been laid by the Department on 'nuisance'. DHA counsel in the *Intercape* case said that in appropriately zoned areas, businesses and other activities cannot expect the peace and quiet of a leafy suburb - DHA's own counsel said that. It was in the papers – it is undeniable. In respect of the *Intercape* judgment, there was a large earth neighbouring DHA premises, which was raised in the course of the case and, again, counsel snatched at it, hoping that an effort could be made – too late – to obtain that earth and to use it to reduce the nuisance. We respectfully submit that in the past the Department has not paid sufficient attention to its obligations and has sought to ignore the rights of refugees in consequence.

I will not labour the issue of the time it takes - the inhumanity (which UCT will deal with) of saying to people, who have been in CT for many years, who have had their permits renewed 16 times, only to be told now 'we are now no longer going to assist you' is an absolutely blatant breach of responsibility and displays a callous attitude to the rights of asylum seekers and refugees, quite apart from showing administrative incompetence. Why when a person's rights to be adjudicated have been frustrated by the Department should the applicant suffer?

As far as the issues about establishing refugee reception offices elsewhere in the north of the country, there is nothing there. Lebombo, which was touted very heavily in the *Scalabrini* case, still does not exist. So, Chair, not only has the cart been put before the horse, the cart has no wheels! It is more than irrational; it is more than a crime. It is a fault, it is an error, to have decided that because there is some inchoate idea that people will have their applications determined in the north, to deprive people in the south before the north is ready, even if it were an appropriate policy. However, we have had confirmation from the chair that there appears to be no such policy.

Thank you for your time. I just wish to say that the closure of the office in Western Cape is absolutely unacceptable, it is inappropriate and it is hoped that the Department will have the courage and integrity to reverse what has been an enormous mistake. We can learn from our mistakes. Please ensure that Customs House remains open and that, if possible, other offices - can be sections of offices as it was done with the Zimbabwean dispensation - are allocated in the Cape to ensuring that asylum seekers are properly and efficiently dealt with. Thank you.

Chair: We cannot expect you to give a one hour dissertation. We are time bound – we expect everyone to have given written submissions that will go into the consideration. We are asking you to summarise the major points that are in your submissions for the sake of progress. We are not saying, and there should not be an argument about ‘what could I motivate within 15 minutes’? It is based on the written submissions that were made.

W Kerfoot (LRC): Chair, that is not what I intended to say. I assume that there will be continuing exchanges.

Chair: Thank you for your input, Mr. Kerfoot.

Submission: James Chapman, UCT Refugee Rights Clinic

I will not belabour this forum with the entire contents of our submission since it is already before the Department and it will be taken into consideration. I am pleased to hear that the implication from that section is not the case and that the matter is being treated *de novo*, as a new decision. The first matter that I would like to address: I would suggest that we look into the feasibility of capacitating Customs House to assist newcomers. As it was noted, it is excellent to hear that in the event that people were to go north, the Department would be in a position to provide resources and capacity for the offices there and therefore I would assume, by analogy, that the same would be possible in the Cape Town circumstance. We know that Customs House has already, in the past, been dealing with all the operations of an RRO and therefore need to explore why the same is not possible. The Department should also look at the feasibility of satellite offices, as argued by Mr. Kerfoot.

Even though it might be water under the bridge, it does seem strange that there have been three court orders that have said that the decision to close the CT RRO was unlawful and yet during that period there has not been a *de facto opening*, realisation and provision of services to newcomers. I would like the Department to provide an explanation for that. With respect, the Department’s explanation that there were pending court matters does not explain why the court matters already on the table were not acted on. When the court gave an interim judgment on 1 February indicating that the closure was unlawful, it is not clear why newcomers were not assisted for this period. In any case, the *de facto* closure can be used as an explanation for which the office should not be opened and fully functional. That is clearly evident from the enormous numbers

of people who are not being assisted. Related to the failure to assist newcomers, I received a phone call from someone two days ago who had been arrested in the Saldanha area. I also got a call a week ago from a Somali newcomer who was arrested in Freedomburg (?). There are people being arrested, detained, and threatened with deportation. We have people coming to us saying that they cannot get jobs. There are an enormous number of newcomers in Cape Town who, because they are not being received and assisted at the CT RRO, are experiencing extreme prejudice. This cannot be overstated.

In terms of proposals on the best way to proceed, at the moment, the regional office is processing ID documents and passports for refugee status holders. It has been suggested in speeches in the past - by the DG amongst others - that perhaps the entire operation dealing with refugee status could be under one roof separate from the asylum seeker process. In order to allow for the inclusion of newcomers at the CT RRO, one could process refugee status documents in the same way that refugee IDs and passports are being processed at the CT regional office. This is just a proposal.

Chair: Sorry James, could you please repeat that proposal?

At the moment, refugee reception offices (generally) are assisting newcomers, doing refugee status determinations, RAB, SCRA matters and that is the asylum seeker process. Beyond that, recognised refugees also go to RROs to have their permits extended. That particular function might be better served if it is done at a separate office, in the same way that refugee IDs and passports are being processed.

There is the question of persons that get their first permits at a different office. As early as 2009, we were told that one of the advantages of the new system implemented is that the system is electronically integrated. Thus, if there is someone with a reference number from Pretoria, that can be accessed by the computers here in Cape Town, Durban and the like. That is a wonderful system and it is not clear why advantage is not being taken of that system so that, irrespective of where people are in the country, and embracing the fact that they have freedom of movement, they can be assisted and processed at whichever office is closest to where they reside.

There is something really lost at this 'ex-office'. There is an issue that does not seem to be understood. I do not know where the communication breakdown is. It is not just the people who get their first permit, for instance, in Musina, who then come to Cape Town to settle here that we are dealing with. We are also dealing with people who have been in Cape Town, and in some instances have had their permits extended in Cape Town 16 times, they have been here for 8-12 years. They have always had their permits extended in Cape Town but because they got their first permit elsewhere they are now being told that they cannot be assisted in Cape Town any longer. This does not make sense. On top of that group, there are also specific groups of people. For instance, husbands who initially got their documentation in Cape Town. They have CT reference

numbers. But, when their spouses or children come and join them later – maybe because they were unable to flee at the same time or lacked the means to do so at the same time – and they get their documents in Musina or elsewhere, now one has a family whose documentation is half from Cape Town and half from other offices, and DHA is tearing families apart, when it requires half of the family to extend their permits at offices other than the CT RRO. Then there is the issue of persons who spent their last cent to come to Cape Town because they have relatives, friends or some connection to Cape Town and now they are unable to put bread on the table. Now this person is being asked to find the means to travel to the office of application every time the permit expires. This is ridiculous. There are also people who are disabled, vulnerable. The invitation mentions that exceptional circumstances might be taken into account. Yet, one must look at practice. We recently dealt with a case of a person who had bone marrow cancer. Until we litigated on the matter, he was not assisted in Cape Town. We still have a lady whose husband is a recognised refugee has a CT reference number who, to this day, has been told that she cannot be assisted at CT because she got her first permit in Pretoria. While I understand the suggestion that special circumstances will be taken into account, it would be a much better solution to assist persons at the RRO closest to the place where they reside, irrespective of where they applied. The latter should be irrelevant given the electronic integrated nature of the refugee system that allows for records to be accessed from anywhere. If one were to argue that persons try to manipulate the system by going from office to office – and I would submit this number is low – it would be fairly easy to weed this out. We live in a society where one could fax, email or send through a decision from another office to address those who want to cheat the system. We therefore submit that there is no basis on which the CT RRO should not be fully functional in Cape Town. I also echo the suggestion that an additional satellite office within the Western Cape would be worthwhile, considering the large number of asylum seekers and refugees and the sheer size of the Western Cape. At the very least, a fully operational refugee reception office should be in the Cape Town metropole.

Those are our submissions for now. As it has been suggested, perhaps there will be continued consultation and dialogue on this matter and I reserve my right to add more information at a later stage, but for now these are our submissions.

Chair: Arrested asylum seekers – the newcomers – where did they come into the country? At the airport, the harbour?

J Chapman (UCT): In one instance, a Somali client came through Mozambique border and then came to Cape Town. He had been here for about a month and tried to go to CT RRO to get documentation but he was refused on the basis that, as mentioned in the invitation, the office is *de facto* closed to newcomers. He was returning home to Freedomburg where his uncle stays, and that is where he was arrested for not having any documentation. He is a Somali national and we know the situation there. One cannot be returned to Somalia but one should also not be detained for failure to obtain documentation that one cannot get because of a system that has been put in place. The other person came from the Namibian border.

Chair: Ok, thank you. Could I get from yourself and Mr. Kerfoot the idea of a 'satellite' office?

W Kerfoot (LRC): We are suggesting that there be a separation. For example, at present the Barrack Street office deals with refugee IDs and other issues. There is no reason why it cannot continue to do that and why, for instance, it or another office established say in Wynberg or other areas, cannot deal with the renewal of refugee certificates, applications in terms of s27(c) – certification, etc. It is not a hugely complex logistical exercise. DHA has very successfully done it with the Zimbabwean dispensation. There is no reason why it cannot be done in relation to asylum seekers.

Chair: I understand; however, we must be clear that the Zimbabwean dispensation exercise was not a refugee exercise.

J Chapman (UCT): There was a stage where the RAB was operating in Nyanga, whilst other refugee reception office processes were operational at the Foreshore office. This is another example where some operations of the RROs could be relocated. RAB has sat in Barrack Street also.

W Kerfoot (LRC): Another example was when an effective effort was made by Refugee Affairs to deal with the backlog in the early 2000s. Whilst Customs House was still fully operational, a backlog service was introduced at Nyanga. Offices operating in different areas have been proved to be successful. One is at the touch of a computer away. Persons who try to avoid receiving decisions – those persons have registered a hit and therefore it can be easily done.

Submission: Abdikadir Mohammed – Somali Association – Western Cape

My submission will be from a humanitarian perspective. I am not a lawyer or legal expert like LRC or UCT. I will also speak from experience from what we have seen with the Department of Home Affairs. When you introduced the history of the RROs, you stated that there is no policy of taking the RROs to the border. In the document that we received, it is indicated that a small number of asylum seekers enter annually through CT ports of entry and that the bulk of new asylum seekers enter through the northern borders of South Africa, which could make it more convenient and safer for them to be processed and documented at RROs situated closer to the ports of entry. I disagree with that. It is true that most of the people enter through the northern borders but when they enter and they are new, they do not know where they are going. They only target their relatives, close family, whether it is a husband, cousin or brother, or even someone who used to live in the same town. What they normally do is that they send some transport for them to travel and come to where that person is based. For example, if the person is based in Cape Town and the relative just enters, newly arrived in Johannesburg. In this case, if a Somali comes to Mayfair in JHB, he just travels to Cape Town without knowing what is going to happen to him, how he is going to be documented, what is the situation of documentation, how DHA works and its policies – he does not know about that. Even the person who is hosting him in CT does not know

what is going on. In general, asylum seekers and refugees are not educated on how DHA works – what their rules and regulations are, how they should get their documentation. They just get information from others that they must go to the RRO closest to them (here in CT). When they go there, they are told they cannot be helped because they are newcomers. What then happens is that those persons now need transport to go to another office, either in Pretoria or Musina. This person does not know the country very well and cannot travel alone. Maybe she is a woman with a child, maybe he is a disabled person – there are a lot of factors related to it. Normally what ends up happening is that the person stays undocumented for some time. Then, he or she goes back to the CT RRO and is told that s/he cannot be assisted. This leads to people not being able to get a job, he cannot help himself. As a result of this we will have a lot of people who will be unemployed and who will become a nuisance to the government, to the local people and to other refugees themselves. Example: There was a family of 10 – Father, mother and 8 Children – they originally got their documents from CT. Then, they moved to Pretoria to make a living and when their documents expired, they were told that they could not be assisted in Pretoria. They were forced to travel with the 8 children to Cape Town. They do not have a house in CT and nowhere to stay. They spent their little money and the money was finished. People were asked to donate money to take them back to where they came from. This is as a result of not being assisted at any RRO. I request the DHA that the RROs are many and not just one in Western Cape, as suggested by LRC.

If RROs are closed and taken to the border, this will create a situation where refugees fall victim of crime, or corruption or other things that will come up and that we are not thinking about now. You said that there is no policy to take the RROs to the borders. There was a policy of the ruling party that came out in March 2012, indicating that the ruling party was considering the policy of putting the RROs at the borders. I read that document and do not know if that document was accepted in Mangaung. We are not sure if that is going to happen. When you say that there is no policy, we accept that but we are still waiting to hear what the government is going to do.

There is also the situation of people being detained, arrested and even at risk of deportation. We have heard of a number of cases where they were told they would be deported. We do not understand why – the DHA claims that they are not documented. Some of the people have their documents expire because they obtained their documents in another office, like Pretoria, and when they expire they go to the CT RRO but they are told that they cannot be helped – permits cannot be renewed. They have to go back to Pretoria or the office of application. They do not have money or transport to go there, so they just keep their documents and they stay. Maybe a year or so later, they are arrested and then they are considered to be arrested. But whose fault is it that they are not getting the document that they ask for?

There are refugees who have been here for more than 10 years. There are those whose Section 24 permits have expired and when they go to renew them, they receive shorter extensions. They are given 3 month to 1 year extensions. For instance, there is one lady who has been an asylum seeker for 7 years (from Somalia) and her case has not been decided yet. Considering the vulnerable situation of refugees and asylum seekers across the country, I do not see the DHA considering refugees to be different.

Refugees are different, considering the background of the country they come from. For example, Congolese and Somalis are the most vulnerable refugees in my eyes. They suffer like other refugees too. I think refugees need to be differentiated – they should not be put in the same line. When one is talking about refugees, about shifting the RROs and even closing them down, DHA must consider which refugees one is talking about.

Chair: Can you please explain sir what it is that you mean when you say that refugees are different?

A Mohammed (SASA): I mean that the background from which they come is different; for instance, the situation in Somalia.

Chair: But what is the situation in Somalia that is not similar to a situation in the DRC or in Zimbabwe?

A Mohammed (SASA): The situation is different in different countries. I am not actually going to say that a country is better than another or worse than another. We need to consider 'real' refugees –for instance, someone who is from Mogadishu or another part of Somalia, who asked to be considered as a refugee for 7 years now, and his case has not yet been considered/decided. He has not had a chance to prove that he is a refugee. That is what I mean. If you compare with persons from another country, the situation is different. The refugees are very vulnerable and they need to have their matters considered.

A Mohammed (SASA): I believe that we need to discuss many other things that are on our minds and we hope that you will give us a chance to discuss them.

Submission from African Disabled Refugee Organisation (ADRO)

Mr U Abdulkadir, Advocate, ADRO

We want to make representations to argue that the CT RRO should not be closed. The need to consider closure is based on the fact that the DHA perceives that there are very few refugees who are coming through the borders within the Western Cape. My understanding and experience is that such is a very wrong conclusion to have been reached by the Minister. You find people who come into the country legitimately with visas for whatever reasons. They go to towns or provinces that are far from entry points. Thereafter, they approach an RRO to request to be recognised as an asylum seeker and have their case determined. My point, therefore, is that the singular reason why the DG feels that he must exercise his discretion to close the Western Cape office is pre-emptive and the DG should look at equipping the various offices in the Western Cape, in order to, as quickly as possible, determine cases and make decisions that inform whether a person should remain in RSA and request the person to leave. This should be

done, as opposed to arguing that not a lot of new asylum seekers come through ports of entry in the Western Cape and therefore DHA wants to close offices in the Western Cape.

Another issue is the question of allowing people to remain in the RSA as asylum seekers for a very long period before deciding that the person does not qualify and then giving the person one month to leave. Leave to where? It is a funny question but for many of us who have been through the system, the reality that people face when they have left their countries of birth, to remain in another country for 5-6 years and then be told to go back, to where? Most of us left when we were minors, you are now an adult, you do not have family relations in the country that you left, so now you have to go back to whom?

When making this decision, DHA needs to consider that it is not just closing an office, but rather determining the life and death of a person. That is the point that I want to emphasise. I am originally from Nigeria. I came as an asylum seeker. I studied in RSA. I got my LLB. I was admitted as an advocate. I worked for the Department of Justice. Then I resigned and now I work for ADRO. When the DG decides to close an office, it must be seen as a process that encompasses more than closing an office, that even though Cape Town is not a border point to any of our neighbouring countries, it is necessary to understand that people come in through the legitimate process of flying from wherever with correct documents, for whatever reasons, to come to a place like Cape Town.

Mr A Mbayagu, Coordinator, ADRO

We received the invitation late and therefore we do not have written submissions. I want to emphasise the electronic integration of the refugee system. We have a lot of clients in CT who have been here for many years – many of them are single mothers with many children – who got their original permits at offices other than Cape Town, especially Pretoria. They have renewed their permits at CT over 10 times but now they have been told that the system is blocked and they cannot renew their documents in Cape Town. They have to go to Pretoria. There is no appointment there. A woman is sitting with her children for a long time; it is a nightmare for such persons to get transport. The electronic system integration should be operational so that the person does not need to go back to Pretoria. Persons have been waiting for appeals for 5 years or so. There are also persons who have never received decisions in 8 years and now the system is blocked. This is a death sentence because this affects their ability to work, access to their bank accounts, etc. If the office closes in Cape Town and persons have opened their bank accounts in Cape Town, this will be a nightmare.

The other issue is that of satellite offices – these operated during the xenophobic attacks to provide clients with documentation. There are a lot of farmworkers from De Doorns and other areas. Has the queue management assistance from UNHCR been taken up? Queue management needs to be improved.

Family joining is the last issue. Husband is an asylum seeker; wife has refugee status. The next time, the husband is not allowed to renew his document and what is going to happen next?

Persons who have been refugees for many years have now been given short-term extensions (1 month, 6 month).

We would like to see better collaboration with the Cape Town RRO – we do not have a way to contact persons at that office. Some time ago, we used to have monthly meetings to improve operations but they are not taking place.

Submission: Cape Town Refugee Centre

Debbie Carson

It appears that asking asylum seekers and refugees to renew their permits in designated or original offices where they were given their permits is going to force families to travel to go to those particular offices and because they are vulnerable and because they are extremely poor, finances are scarce and they do not have the means to do so. A lot of the permits that I see coming through our office are good for 30 days, maybe 60 days. Thus, what is happening is that it will force families, who are already under financial constraints, to reside in the areas of those offices. By forcing them, we restrict the freedom of movement of these families. I know that we do not have refugee camps but that is exactly what we are going to establish in those areas. My recommendation is that you really consider this seriously and if you are not going to follow through and close the office anyway, please extend the permits for longer than three months so that we do not restrict the movement of asylum seekers and refugees.

Fwamba Mukole

I come with a service provider's point of view – we provide services to asylum seekers and refugees. I was involved in the previous meetings on the CT RRO. There was a quick meeting after briefing Parliament to inform stakeholders about the rationale behind the decision that was taken.

My perspective is that as service providers we know that documentation is extremely important for us to provide services to vulnerable refugees. We see the emotions involved when someone, who is suffering, and the person cannot get access to assistance because their permit has expired or has no permit at all. Documentation is extremely important for refugees – that is the starting point of the refugee journey in this country where paper and the proof that they are registered and legal in the country to be able to

provide assistance. So, by DHA not opening that office, it freezes us also. It not only affects asylum seekers and refugees but also us from providing services. That is my contribution.

Submission: LHR - D Cote:

We want to thank DHA for this opportunity to speak to you today and hand over our submissions. We believe that this engagement is rather long overdue. We are glad to give some input into the policy direction in which the DHA seems to be going. We would like to hand in a copy of these submissions. I have included a copy of our publication – done jointly by ACMS at Wits University and LHR. It came out in January 2013. It shows that the trouble that the refugee system is in, in general. It relates to Section 8 of the Refugees Act, and how the decision of the DG has gone against the purposes of the Act and what is necessary for the purposes of the Act.

LHR has an office but does not have a refugee clinic in Cape Town. However, other LHR clinics have become increasingly involved with clients who are based in the CT area. This is all the more so since the CT office stopped receiving new applicants. But it does not only concern new applicants – it also concerns existing applicants who are stranded in other areas of the country such as KZN and Gauteng and Limpopo and who are unable to return to CT to extend or renew their permits. There are also people who are stranded in Cape Town, and are unable to have their files transferred out of Cape Town. It is a surprising issue that has come up on a regular basis. There are also people who are stranded between CT and Musina – new arrivals who intend to reside in CT but who still have to make that trip to Musina back and forth and often get stuck in Pretoria and are unable to move on. This is a category of people who eventually find themselves without documentation because it expires and they are unable to renew it at Marabastad and TIRRO due to problems at that office. We have included a lot of these matters in our written submissions.

What we want to focus on today are the troubles within the system. I am really glad we have representatives from SASA and ADRO who can give personal experiences about what is happening in the system. The decision to close the CT RRO has affected all other offices in the country. When the DG is making the decision whether to close the CT office or not, he is going to have to take all of those factors into account. In terms of the Act, the closure of the office has nullified many of the protections provided for not only in the Refugees Act but also in our international obligations. Clearly at the moment, there is currently an insufficient number of RROs to deal with the amount of work and responsibility that has been given to the Department to provide for refugee protection. One of the main places where we see this is in terms of access. Access to the Marabastad and TIRRO offices in Tshwane is horrific. The conditions at those offices are lacking due to lack of capacity, lost files, and there seems to be no communication between RAB, SCRA and the RROs. We cannot ignore the factor of corruption by all role-players who are based at those two offices, including DHA officials, interpreters and security officials. This has resulted in many people being arrested and detained and finding themselves at Lindela, and we still have to bring weekly cases for the release of

unlawfully detained people at Lindela, as well as people who are detained at police stations. The problem is that there are continuous arrests and detentions of persons who do not need to be in immigration detention and who are being unlawfully deprived of their liberty because of that and it is directly related to these access issues.

This is also resulting in fines for people who are unable to access refugee reception offices. These fines are issued against them in terms of a fines schedule issued by the Chief Magistrate in Pretoria. The problem is that at the moment the fines are not being issued. People are going there saying 'my permit has expired and I need to have it renewed', but the fines themselves are not being issued to them either because there is no willingness on the part of the immigration officer at those offices or because there is no transportation. They do not have the capacity to transport people to the police station in order to issue the fines. This means that people are just being turned away – being turned away with lapsed permits but with status that is still valid. However, police officers and sometimes immigration officers do not take that into consideration. This has exacerbated the situation because now we have many, many, many more people who are coming from out of town and are now being forced to go to Pretoria. For instance, people who had previously been in the Western Cape are now forced to come to Pretoria and they also have to travel back. There are many, many roadblocks on the way between Pretoria and Cape Town. Often people find themselves arrested at that point. Access is therefore one of the main issues that we are seeing at Marabastad and TIRRO. But again, corruption is another major problem. We have tried to address corruption – we are not sure how to do it. If you have any suggestions on how to do it, we would appreciate it. There is a terrible lack of trust on the part of asylum seekers and refugees to report corruption. The Anti-corruption units often, when we bring this up – our clients are unwilling to bring these issues because they are afraid of the repercussions. We have not yet figured out a system in order to allow them to bring these allegations of corruption but also be assured that they will not be punished by officials for bringing up these allegations.

To move on to access at Durban: the management at the Durban RRO seems to be very good. The process that is happening there is much better than that which we see in other offices, particularly in Pretoria. One of the reasons for that is the engagement that management has undertaken with local service providers. We are able to have good conversations with the management there – we are not going to agree on everything and that's fine, we understand that. At the very least, however, the management is willing to engage and respond on specific issues. It is a management style that really needs to be copied in other offices because of the problems at those offices.

We have also found that the management at the Musina office is pretty good – they are also engaging with local stakeholders in the Musina area. The problem with access at the Musina Refugee Reception office is not necessarily the office but the town of Musina itself. The town of Musina is far away – it is at least an 8 hour taxi ride from Pretoria itself, let alone from the other areas from which applicants must return on a regular basis to renew their permits. It costs R400 to take the taxi from Pretoria to Musina and that is just a one-way trip and for one person. So, if you have a large family with many dependants, it then means that one must pay R400 per person for a one-way trip. I looked very quickly at bus lines (Greyhound and others) between Cape Town and Musina and there is no direct bus line. There is not even a direct bus line that I could find between

Pretoria and Musina. And therefore, clients must find different ways to get to Musina because the transportation is not available. There is also no accommodation in Musina. The accommodation that exists in Musina is firstly expensive (guest houses). Otherwise, persons are forced to stay in shelters, if there is space at such shelters, or you and your family need to stay in the bush. There is no other place for you and your family to stay while you are trying to get your permit sorted. I have to reiterate that it is not just one trip but several trips back and forth. There is also no guarantee that when you go on a particular day you are going to be seen. You may be required to come the following day when your nationality will be seen – nationalities are not seen every day but only on certain days of the week. Further, if you miss the particular day when you were asked to go, you are going to have to wait until the next week when your nationality will be seen again – this means that you will now also have to pay for a whole week of accommodation for you and your dependants (or stay in the bush).

The other major problem with the Musina office is that of file transfers. It appears that there is a policy decision that has been made by management at the Musina Refugee Reception office that they will not transfer any files. So if you made your initial application at Musina you are not going to be able to have your file transferred to another office around the country, even the ones that are supposedly open to new applicants (Pretoria, Durban). They are refusing to do so. This is forcing people to remain at that office and either travel back and forth or stay in that immediate area. No reason has been given for the lack of file transfers and it is causing terrible prejudice on the asylum seeker population there.

We are concerned that the experiences at Musina are going to be shared by other offices that are opened along the northern border. The test for prejudice is not when or where people come in but where people reside and when they are going to be able to return to a particular office on a regular basis. The concerns raised by DHA over the 5-day limit that is going to be imposed by the Immigration Amendment Act for Section 23 permits under the Immigration Act are misplaced and unfounded. If the border officers allowed someone to apply and then transfer their permit onwards, then many people would not have a problem with that. It would allow people to get their permits as soon as possible, become documented, allow DHA to take biometric information, etc and then allow that person to move inland. As it is at the moment, if you want to move inland, and you have to support yourself in terms of South Africa's urban protection policy, you are going to have to get there in 5 days or evade state authorities. I don't think it is in anyone's interests to encourage people to be evading authorities.

In conclusion, Section 8, from a legal point of view, seems to be written in permissive language – it states that the DG *may* open as many offices as he or she deems fit after consultation. This is one of those 'funny' areas in law where 'may' has been interpreted as a 'must' and it would defeat the purposes of the Act if not enough offices are opened for the purposes of the Act. At the moment, there are not enough offices and as we keep closing offices without opening new offices to replace them, without allowing people

to have access to offices as well, it is clearly falling in the realm of an irrational decision and it is defeating the purposes of the Act. We truly believe that it is an unconstitutional way of changing policy without going through the proper processes.

Going back, Chair, to what you said about there being no policy to move offices to the borders – we have been involved with cases from the beginning, from the closure of Crown Mines up to the closure of PE and observing the closure of the CT office. We have to say that every time that we get a new affidavit, there is a different way in which that policy is being phrased. The very first time - Cabinet had taken a decision after the JHB matter to move all asylum offices to the border and all asylum services to the border. In the PE case, Cabinet is *considering* a policy to move all asylum services to the border. Now, we are in some policy review stage of some sort. There has been no clarity on where this policy is going or what stage it is at. From what I understand, right now there is a research institution that has tendered to examine this policy.

Chair: Which policy?

D Cote (LHR): To move asylum services to the border. I think I disagree with what you said – with respect. It was not clearly stated like that by the DG.

Chair: Have you seen the policy? The question is asked: Is there a policy? I said there is no policy.

D Cote (LHR): But the DG has said that there is – he said so in his answering affidavit.

Chair: I will have to ask him to issue that policy but we are telling you now at this meeting that there is no policy on this. There are considerations about many policy changes and issues. A policy is one that is stated on paper and in practice. There is no such policy.

D Cote (LHR): Sorry to interrupt, but we need clarity from the DG about that – he had said that there is a policy, that it was stated by Cabinet, that Cabinet had made a decision. The Cabinet declaration however did not say that there is a policy. All that the Cabinet declaration said is that we are reviewing the border enforcement. That has been interpreted, at various times, by the Department as there being a policy. We need a definitive answer from the DG as to whether there is a policy to move the offices to the border.

Chair: I represent the DG here and I am telling you that there is no policy.

D Cote (LHR): The last issue – this confusion - this debate about the policy comes about because we do not have any information. The only information that we have been able to glean from the Department in the last three years of this issue has been through court papers. That's not the best way of doing it. We do not want to engage in that way. We want there to be future engagements with all the stakeholders regarding the future of, or whatever future policy, about border moves, but also about services being provided at RROs. We also need to discuss about other elements such as SCRA – how SCRA services are happening, how they are doing their work, the massive backlogs that they have. Also about RAB backlogs – this really feeds into the idea that there are not enough services being provided for the purposes of the Act. When the DG makes his decision, he must take all of these different elements into consideration.

Tea break

W Kerfoot (LRC):

The first point that I would like to make is that the closure of the offices and particularly of the CT office has either been completely irrational or completely premature and it should be re-opened. The second point, and the positive point that has arisen from inputs today, is that where things have gone well there has been involvement and engagement with civil society and stakeholders. I have had, with respect, very positive engagement with Mr Y Simons but he tells me that he is doing that, not in defiance, but not in obedience to an instruction that came from very high level that Centre Manager are not to engage with lawyers and that everything should be referred to the legal advisers in Pretoria. This means that it is impossible to resolve anything quickly and impossible to resolve anything without litigation. Again, just to show the benefit of engagement, Mr. Simons kindly intervened to ensure that at least lip service is being paid to 3(c) rights of persons married to recognised refugees in Cape Town. There are still hiccups but at least you don't automatically get a refusal to help. Having regular engagement with local officials has been very useful and it should not be curtailed, but rather increased.

We heard from CTRC on the extension of permits for short periods – this is one of the contributing factors. If permits were extended for greater lengths of time, the burden on the offices, on the queues, and on the logistical problems would be diminished radically. On 11 September 2001, the then Chief Immigration Officer and I spent a long time trying to negotiate this without much success – it has been a very long standing issue. Finally, on the question of being able to communicate, being able to resolve issues without having to send emails that never get responded to, or obtaining cell phone numbers that are difficult to obtain or to communicate with: Can't the Department of Home Affairs not get landlines so that one can leave messages or contact people? It is outrageous that one cannot reach either the Refugee Reception Office or Barrack Street Home Affairs by landline.

Submission: Roni Amit - ACMS

Unlike most of the other organisations here today, we are a research organisation and not an advocacy organisation. I would like to speak to the research a bit. In the past, we saw efforts at increasing efficiency at the Home Affairs offices, by the opening new offices a few years ago. What we have seen as a result of the CT office closure and other closures is that these gains have been lost. We have seen declines in this efficiency. There is a perception that a lot of the people in the asylum system are there illegitimately and that they are, in fact, economic migrants. For this reason, I would like to raise the question of what is the ultimate goal of DHA policy and of this office closure: Is it to document as many people as possible? Or whether the goal is actually to deny access to the asylum system? Based on everything that we have heard today, there is no question that the office closure is having the latter effect. It is denying people access to the asylum system. DHA has to think whether or not that is the goal that it wants to serve and whether it is a desired goal to have increased numbers of undocumented individuals in the country, because that is the effect. This means devoting increased resources to detention and deportation when the evidence shows that that is not actually an effective policy – we see a lot of people who are deported do come back. The Minister herself has questioned whether focusing of increased resources in detention and deportation is in fact effective. I would therefore ask DHA to keep that in mind when making the decision of whether or not to open the CT office, as well as what it is trying to achieve, and whether keeping the office closed is going to achieve that goal.

Submission: A Cloete – Friends from Abroad

The philosophy of Friends from Abroad is to work on compassionate grounds predominantly with people from refugee backgrounds. As a former exile, I experienced love and compassion in Holland and in Germany. Thereafter, I started Friends from Abroad. I would like the Department of Home Affairs to consider, on compassionate grounds, to have an office in Cape Town. We have the situation where women and children are having great problems – we have heard many already – they have to travel great distances, they need to find money to go up north. We would like to see this stop and therefore we would like an office in Cape Town. We would like to remind all of us, as Madiba said, that we should be loving and caring to people coming from other countries, reminding us that when we were exiles, we were treated fairly and lovingly there. Let us do that and not create the impression that DHA is actually encouraging xenophobia. It is a bit harsh, but this is happening – the thinking is already amongst refugees that the DHA does not like foreigners. We would like to see this process reversed. If we remove the office in CT, we will not be helping the situation. If a woman now suddenly has to find all this money to take her whole family and she doesn't have the money and gets into major stress because of that, that is not loving, that is not compassionate.

I would like to thank you, Chair, for having listened so compassionately to the people here. We would like to ask you to take the concerns raised here and the submissions to Pretoria and we look forward to a positive result that the CT office will come in place and that the idea to stop it will be reversed. We hope to hear soon that this is the case. Thank you very much.

Submission: CoRMSA - Mr. Sinthumule

CoRMSA is a network of several organisations that represents the rights of refugees and migrants in South Africa. Firstly, we would like to thank DHA for inviting us, together with our members, in this consultation meeting to address these critical issues and getting the way forward. As I said, we are a national network that represents different organisations, as CoRMSA we are in support of the other submissions that have been done by Scalabrini, LRC, ADRO, LHR and other organisations that have submitted to you. Unfortunately, the person who was meant to be here, Ms. Roshan Dadoo, had emergency problems and therefore I have come on her behalf. I will therefore read from some of the submissions that she prepared.

CoRMSA has an interest in the issue as an organisation that advocates for the promotion and protection of the rights of asylum seekers and refugees in South Africa. Our submission is further informed by our advocacy work regarding the closure of the Crown Mines office, which had a profound negative impact on the beneficiaries of the services that were being provided, and their ability to claim and continue protection under the asylum system. CoRMSA has subsequently written a position paper on the closure of the refugee reception offices in the country, highlighting our concerns and making recommendations on how to address the issues of asylum in the country. I don't know if you have managed to get hold of that paper that we have written. Otherwise, we are willing to send it to you because we made several recommendations.

With regards to this specific consultation, we would like to highlight the following issues:

CoRMSA strongly believes that there is a need for a fully functional refugee reception office in Cape Town. This office will service the asylum seeker and refugee community who have settled in Cape Town over the years. As previous speakers have mentioned, the closure of the office might have an impact in terms of forcing people to reside closer to other offices. A fully functional office will ensure that asylum seekers and refugees can access services all the time. The closure has affected asylum seekers and refugees in the following ways:

- In the closure of other offices, there has been too much loss of files and there is a delay in file transfers. In other instances, there is a denial or refusal to transfer files from one office to the other. These asylum seekers and refugees are then left without any protection in the country because now they cannot renew their permits. For them, having expired permits equals to having no permit at all because they are often detained if the permits have expired.
- We would also like DHA to consider the issue of children who have continuously missed school because of this renewal process. Now, they have to travel from Cape Town either to Pretoria or Musina, depending on the mode of transport that they are using. As we know, in our Constitution and in other laws, children come first. So, it is necessary to consider the rights of children in terms of travelling to and from to renew their permits. The cost of getting their permits renewed has increased dramatically because they have had to travel a longer distance. We are therefore urging DHA to look at these issues.

- Due to this increased number of people visiting particular refugee reception offices, corruption has become very rampant and has the effect that those clients who are unable to pay are unable to access the system. As other speakers have mentioned, Crime has become a 'practical practice' in many RROs, even though we have tried, together with other partner organisations, to engage with several Centre Managers. We seem not to be winning the battle. We would therefore like to call on the DDG: IMS to engage the Centre Managers at RROs to deal with the issue of corruption. From the information that we have received from our member organisations, these days, to renew one's permit and to determine the duration of the permit (the number of years to get the permit) depends on how much a person has in his/her pocket. These allegations have been coming through. There were allegations made that there are people outside of the RRO targeting persons who are there to renew. Their phone numbers are being distributed to make arrangements to pay, to ensure that the client gets 4 years instead of getting 2 years or 6 months. Some are given 6 months because they are unable to pay the money that is requested from them. We would therefore urge DDG: IMS to be hands-on on this issue of corruption so that access to refugee reception offices becomes equal for all who need it.
- In line with the concerns that we raised in the Memorandum – the Memorandum was handed over to DHA as part of the march that CoRMSA held - we would like to reiterate the following points:
 - We requested DHA to reopen the RROs that had been closed, in line with the court judgments on these matters, and for those RROs to provide services to new and existing asylum seekers and refugees. Without those RROs being reopened, the services will continue to be difficult for new applicants to access. If you have been to those offices which are providing for new applications, if you can see the backlogs and the issue of access is not easy to access those services. We would therefore urge DHA to look at these issues.
 - We also want DHA to embark upon a full, comprehensive, open dialogue with civil society stakeholders, service providers and affected communities. This has been raised previously - maybe Florencia will attest to this. We used to have regular stakeholder meetings with Centre Managers, where issues such as these would be deliberated. Those regular meetings with Centre Managers, I don't know whether I can say that they have been taken away or have been cancelled because they are no longer taking place. It was a platform where organisations that represent the rights of refugees bring these other issues, such as the issue of corruption, and where we discussed and recommend how the Centre can deal with these issues. We also raised issues of access, days [for nationalities], of lost files. We strongly urge DHA to revive those stakeholder meetings because they play a critical role for us to engage with the Centre Managers, such as on issues of the landline that LRC raised. If we have those monthly stakeholder meetings it would be easy for us, because it is not easy for us to get through to DHA by using a phone, it is a difficult mountain to climb. If we have those continuous engagements, it will bring that interactive nature. It will also assist DHA to deal with those people who are in the asylum seeker system for a long period. Maybe now Centre Managers are not aware that there are a lot of people who remain asylum seekers for a long time. In those meetings, we could discuss the issue and find ways of dealing with them. Even issues of SCRA, of the Appeals Board not sitting regularly and only having one member at refugee offices could be discussed.

For DHA to honour its international obligations to provide protection to refugees and thus honour the asylum regime, DHA needs to abide by the conventions and international instruments. The closure of RROs is colliding with the international conventions. These are our submissions but they will be sent to you in writing hopefully by the end of the day.

Chair: Thank you very much. I think I should mention – not for discussion - the issue of interaction and stakeholder meetings. Stakeholder meetings are important and critical and we will look into the issue of why they are not continuing at our RROs. That is where you would deal with most of the issues. However, I need to put a caveat to this; in other words, give you our experience of this. Mr. Kerfoot, this will feed into the issue that you have raised. I am not casting aspersions on you or anyone else, but these are the problems that we have picked up. Where there is interaction between lawyers and our people we have problems with that because lawyers do it for litigious purposes. They engage with people at a very low level who interact with them and say things that is not even policy-related and those things are taken out of context. Without checking it at a higher level, or managerial level, it caused a lot of problems for us in the past. The type of stakeholder engagement that we are talking about, and that you are alluding to, CoRMSA, was the stakeholders that represent communities, such as CoRMSA, Somali Association – community based ones. What we had a problem with was that, later, it was not those community organisations with interests and the advocacy ones, but it was the ones where lawyers were now coming to our people, even threatening our officials to do A, B, C or D, otherwise they will litigate or do otherwise. This was a bit of a problem for us when we saw that happening. That is why the request was that, if it is a lawyer, then ask the lawyer to send the request to our legal department. The latter know how to deal with lawyers and they could advise us on how to relate, how to deal with these issues. This came about, in my opinion, because of a large measure of mistrust. If there was not this mistrust, and because we are a litigious society where you do not know whether you can freely share with someone your thinking on something without it landing in court somewhere as a decision of the Department, it becomes a very difficult issue to manage. Rather give it to people who are paid to do that – these are our legal people – to deal with legal minds and not our officials at that level. However, we are open to engaging with those organisations that we have been engaging all along in terms of discussing local issues around asylum seeker management and how we do it at our Centres. I am mentioning this because I am open – you know that with me, what you see is what you get and those were the realities that were there and I am putting them on the table. I am doing this, please, not for discussion but to answer your questions, and Mr Kerfoot's question, as to why certain things are not being done as they were done in the past. We will review these issues – it worked in the past and I don't know why it cannot work now for us. We will take up those particular issues.

With regards to the issues that you are raising on corruption, I am interested in that and in combatting it. I will engage CoRMSA offline on the matter so that we put measures in place to combat this scourge in our offices. It is in our interest to do that and I will engage on it.

This Memorandum that was handed to the Department – can you remind me when this was done, which march and at which office?

CoRMSA: It was at Marabastad. It was last year. The date was 19 June 2012 (LHR recalled the exact date). The memorandum contained a number of concerns and issues on the asylum system.

Chair: And you have not received any response from the Department on that Memorandum?

CoRMSA: None.

Chair: Was it given to the Centre Manager at Marabastad? Mr Cote it seems that you know about this.

Mr Cloete (Friends from Abroad): There has also been no response from the Department on the transfer of files – there are quite a few people who have requested for their files to be transferred and no positive response has been received. This will solve so many of our problems if that can be reviewed.

Chair: Was that part of the Memorandum?

Mr Cloete (Friends from Abroad): No, it was not. It is a different issue but I am raising it here.

Chair: I understand, thank you Mr. Cloete. Mr Cote, you were saying, who was the Memorandum handed to?

Mr Cote (LHR): Ms Ntukwana was there.

Chair: Thank you.

Adv Erasmus: As a legal mind, I know Ms. Ntukwana was there but was it handed to her?

Chair: Yes, it was handed to her.

Submission – S Carciotto – Scalabrini Centre of Cape Town

I would like to make just a short comment. One of the effects of the closure, we have experienced an increase in the number of undocumented people. At our centre, we receive, on a monthly basis, between 1800 to 2000 people. We do a census every year. If we compare the statistics for this year to those of last year, we have an increase of about 600% in the number of undocumented people. This shows that it is difficult for new applicants to access the asylum process. I would like for all of us to think about what are the consequences of having such an increase in the number of undocumented people. We have discussed what are the implications of the closure for refugees and asylum seekers; however, it is also important to think about what are the implications for the public and the citizens to have a huge number of undocumented people. This could have a huge impact on the health system. If people do not have a document, if they get sick, probably they will not access clinics and hospitals – so what would be the impact on the health of South Africans and citizens? Also, in terms of safety, it is quite obvious that if a person is undocumented, besides the fact that he/she is more vulnerable and can be detained or arrested, but chances that the person will do crime are higher. Our research from Europe shows that if migrants have a permit and are in a more secure position, they are less inclined to do crime. I would therefore like to highlight the fact that this is what we have experienced, namely, a huge increase in the number of undocumented migrants. I think that what we all want - our interest - is to document people as much as possible so that we can keep a record. When we have undocumented people, it is impossible to know how many there are, where they are – it is against our interest. It is important therefore to reflect also on what is the impact on the general public and on South Africans given the fact that a lot of people are now in this situation of being undocumented. Thank you.

Chair: Could I just ask, out of interest, what is your advice to those undocumented people? As advocacy groups, it is not only for Scalabrini but for others in this room, I would like to know what is your advice if someone comes to you and says 'I have no document'?

M Ackermann (Scalabrini): If we encounter such people, we do encourage them to become documented. That is the main message. Now, the only way to do that is that, if the person intends to apply for asylum, they are encouraged to go to an open office. But obviously, because of the practicalities, that does not happen. They just don't go. That is our advice anyway. We encourage them as much as possible to do that.

Chair: Ok. That is your advice – get to the nearest office and apply.

T Shreier (UCT): There is a fear that they will be arrested or deported. That is why they do not approach the office.

Chair: So how did they get here (i.e. Cape Town) because they run the risk of getting arrested when they are travelling to CT?

D Carson (CTRC): I have two children that I am currently working with. At the age of 6 and 8, the father brought them over the border. The father abandoned those children within 48 hours. They had asylum seeker permits. But do you know that no document is available to them? They are now 16 and 18 years old from Angola.

Chair: Are these the cases that we are dealing with here – (i.e. new applicants?) We are not going to continue with this matter but I do not know if you have received the invitation - Mandla (Madumisa), please take the lady's particulars. Our Minister is very interested in the issue of unaccompanied minors. We would like to invite all organisations to a meeting this coming Monday. We have sent out invitations to relevant organisations and departments, but you must give us your particulars so that we can invite you now that we know, so that we can have a meeting. The Minister would like to start a task team to research this and look at how big this problem and situation is. We hear anecdotal evidence when we meet with people and therefore Minister is very interested in finding out how big this problem is and how we should deal with children who are abandoned. So please, Madam, give Mandla your particulars so that he can provide you the information on the meeting.

Mr Mbayaqu (ADRO): In answer to your question, Chair, when a person approaches our office, we encourage them to go to the nearest open office. However, many of the people that we meet in the office are not newcomers. They are people who are in the system, who are in the queues many times but end up being fined.

Chair: That is another issue, Sir. I am talking about new applicants.

Mr Mbayaqu (ADRO): But they become illegal all the same.

Chair: We received a list of over 2000 people who are said to be newcomers. I am talking about those persons. I was very interested to know that, if these persons are newcomers and they come to you, how do you advise them? But you have answered me, which I think is the correct answer – asking them to approach the nearest office that is open to newcomers, whilst we look for solutions.

Mr Fwamba (CTRC): I see clients on a daily basis. As an organisation we have seen that the problem has dragged on for a second year now. We advise clients to look for resources to be able to go to Pretoria or Musina, but the issue is that people want to stay in Cape Town. They will go to maybe Musina or Durban and get a permit and come

back to Cape Town. That permit can only last for three months or so, and it means that, three months down the line, they must go back to Durban or Musina again. They might not be working, they do not know the language, or they may lack resources and therefore cannot go back.

Chair: I understand you very much. I just wanted to know whether you are advising them to go other offices whilst we are resolving this matter in the Western Cape.

J Chapman (UCT): When the initial court decision came out, we were advising everybody to go back to the Centre (CT RRO). When the second court decision came out, we were also advising people to go back to the CT RRO. If we believed that there would be adherence to the fact that the office was unlawfully closed and ought to remain open, we would continue to send them to the CT RRO because there are an enormous number of clients. It weighs heavily on your conscience to tell people who do not have means, who are unable to go to other offices, to go there. From our perspective, we would tell people that they should try at the CT RRO. The reason for that is because there are court orders that supported that the office was unlawfully closed and albeit there is *de facto* absence of assistance - there ought to be assistance for newcomers at the CT RRO. Then we say, as an alternative - because we know that such assistance is not happening – if you have the means, try to go to one of the other offices. However, the burden that such is placing is completely unfair.

Chair: James, we have heard the burden, but you are telling them to do both. That's fine.

W Kerfoot (LRC): I don't want you, chair, to think that we acted in the same way. As LRC, throughout the court proceedings, we gave letters to people saying 'please do not arrest him/her – this is his/her situation'. We have been saying, from a practical perspective, that this issue, subject to what happens as a result of these consultations, is going to take forever to resolve. So, if you can ever afford to do so, go to another centre. But the answer is that people can't.

Chair: Ok, I am fine. Thank you. Are there any other submissions? If not, I want to thank you very much for these submissions and we are looking forward to those that will be given to us in writing. I can commit to you that the Department will take into account your submissions and your proposals on how we handle the situation in the Western Cape with regards to asylum seeker management. We will deliberate about it and also, as the law requires us, we will consult with SCRA on the matter and then our Director General will take a decision on the matter. We thank you very much for your participation. It is really valued. Thank you very much.

Meeting ended at 13H00.