



## **Summary of Maitland Refugee Reception Centre Visits**

30 March – 26 July 2011

### **Introduction**

From 30 March 2011 through 26 July 2011, the Black Sash Cape Town Regional Office (CTRO), along with a few other organizations, has made seven visits to the Department of Home Affairs Refugee Reception Centre in Maitland. Four of these visits have taken place during the day while three have taken place at night. During each of these visits, representatives from the Black Sash remained on the pavement outside of the Refugee Reception Centre (RRC) in order to speak with individuals entering and leaving the centre or with those waiting overnight outside of the centre. Our goal during these visits was to assess the implementation of government policies affecting asylum seekers and refugees at the Maitland RRC and to ensure that the rights of this part of the population are not infringed. The Black Sash CTRO did its best to monitor in an independent and unbiased manner, keeping in mind the ever-increasing difficulties experienced by both the Department of Home Affairs and those seeking asylum in South Africa. It is crucial that the Department of Home Affairs fulfils its legal and constitutional obligations towards asylum seekers, regardless of the amount. At the same time, those seeking refuge in South Africa should be aware of the demanding and often strenuous circumstances facing the RRC and must uphold their legal obligations while going through the asylum seeking process.

## **Gaining Permission to Monitor**

To date, the Black Sash CTRO has not yet been able to enter the premises of the Maitland RRC. Due to internal changes within the Department of Home Affairs, the head of the Maitland RRC, Mr. Sikakane, has not yet granted the Black Sash CTRO permission to fully monitor the site. We have been told that this is because the asylum and refugee processes were being reviewed and that the systems needed to be readjusted. In hopes that this readjustment period has since passed, we are currently in the process of attempting to gain permission to fully monitor the Maitland RRC.

Because we have been unable to enter the premises, we have not yet had the opportunity to speak with Service Providers at the centre or to individuals waiting in the queue. In addition, we have not yet been able to view the conditions inside of the Maitland RRC and, instead, have had to rely on second-hand accounts of the conditions inside the centre and of the quality of service provided. While standing outside of the Maitland RRC, we have been able to speak with individuals who are entering or leaving the site, as well as those who are staying overnight at the site.

## **Purpose**

While visiting the site during normal operating hours, our purpose was to inform asylum seekers and refugees of their rights and to answer any questions individuals may have regarding the application process. Our purpose was accomplished through one-on-one conversations and handing out fliers to those who requested them. The pamphlets that were distributed during these visits included “Information for Refugees” (in English and in French), “Applying for Refugee Status” (in English and in French), “You and Your Rights: School Fees,” “You and Your Rights: Foster Child Grant,” “You and Your Rights: Disability Grant,” and “Farm Workers Labour Rights.” In addition to distributing Black Sash materials, we were able to offer advice and/or to refer individuals to the Black Sash, where they can obtain free legal advice. During these visits we also listened to personal testimonies from individuals regarding their personal experiences and their opinions of the DHA facility and its operations.

While visiting the site at night, after normal operating hours, our purpose was to interview and speak with individuals who were waiting outside of the Maitland RRC overnight. During these visits, we used a monitoring tool that was developed by the Black Sash CTRO to interview individuals that were waiting outside of the site. The monitoring tool used was a questionnaire that was divided into nine sections: Personal Information, Venue, Security, Processing of Application, Personnel and Service, Language, Corruption and Touting, Communication, and General Comments. These monitoring tools have allowed us to ask each individual the same questions in order to identify common issues faced by individuals seeking assistance from the Maitland RRC. The Black Sash CTRO has also developed a monitoring tool that is to be used for officials. However, we have not yet had the opportunity to use this tool.

### **General Observations: Day Visits**

The information below is based on the observations made, and the individual testimonies heard, gained through short, informal interviews conducted by the Black Sash CTRO and their partner organisations during their visits to the Maitland RRC. As we were not permitted to enter the building, our observations solely reflect what we have seen outside the waiting area. Day visits were made on 20 April 2011, 31 May 2011, 8 June 2011, and 26 July 2011.

### **Demographics**

During each day visit, representatives from the Black Sash CTRO spoke with anywhere between 20 and 60 individuals. The individuals we spoke with came from a range of countries. We found that the majority of people came from Zimbabwe and the Democratic Republic of the Congo but we also encountered individuals from Malawi, Lesotho, Somalia, Pakistan, Uganda, Nigeria, Burundi, Tanzania, Bangladesh and Sudan. Most individuals encountered during these visits were men between the ages of 30 and 40. However, women and men of other ages were present as well.

### **Organisation and Quality of Service**

The most common issues raised during these visits were focused around delays in service, a lack of information, and fines involved in the application process. A regular complaint among those at the Maitland RRC was that individuals had to sleep overnight at the centre because the RRC could not see everyone who was waiting in a single day. Many explained that the RRC would only accept a specific number of applications each day. Some complained that appointments were segregated based on nationalities, which they were not made aware of ahead of time. Individuals often travel long distances to reach the Maitland RRC and have to stay overnight if they are not seen because of the long travel time and the expenses associated with their travels.

Many issues expressed revolved around an overall lack of information regarding the asylum seeking and refugee application process. In addition, many were uninformed about their rights as asylum seekers and refugees, specifically with regards to employment and education. The Black Sash representative's encountered many individuals who seemed extremely lost in the process, unable to explain where they stood in the procedure and what they needed to do to remain in South Africa legally. Also, many individuals were unaware of the documents they needed to bring with them to the RRC.

Another common occurrence was that individuals were worried about their section 22 permits expiring and, therefore, being forced to pay a fine of R2500. In addition, many did not know when they had to renew their permit and/or complained about the short validity period of section 22 permits. Some claimed that they were unable to renew their permits on time because of the wait at the RRC or due to unforeseen circumstances that prevented them from being able to appear in person at the RRC.

### **Issues of Vulnerability, Safety, Security, and Corruption**

Additional complaints arose concerning security issues on the premises. For example, one client, upon leaving the facility, commented on the presence of roughly 300 people waiting in the queue outside with only seven security guards present. This client argued that there were not enough security personnel present to handle this large crowd. Similarly, during one visit, there were police present outside of the centre. When the

Black Sash representatives asked why they were there, they explained that the crowd had become unruly earlier that morning due to limited capacity at the RRC and that security was unable to manage the crowd alone.

The Black Sash CTRO representatives also heard a few allegations of corruption within the asylum seeking process. The most common complaint was that people could pay money to be moved ahead in the queue, and, therefore, be seen faster than those who had been waiting all day. Some who were waiting said they were considering paying the fee because, in the end, it would be cheaper than taking time off of work day after day while waiting to be seen. It should be noted that the individuals offering to move people ahead in the queue for a fee were not employees of the Department of Home Affairs or the Maitland RRC, but, instead, were private individuals operating a scheme within the centre. We heard no complaints about corrupt Department of Home Affairs officials.

### **General Observations: Night Visits**

The information below is based on the observations made, and the individual testimonies heard, gained through short, informal interviews conducted by the Black Sash CTRO and their partner organisations during their visits to the Maitland RRC. As we were not permitted to enter the building, our observations solely reflect what we have seen outside the waiting area. Night visits were made on 30 March 2011, 2 June 2011, and 14 July 2011.

### **Demographics**

During each night visit representatives from the Black Sash CTRO completed between four and nine questionnaires and spoke with several other individuals. Similarly to the day visits, most of the individuals we spoke with were men from Zimbabwe and the Democratic Republic of the Congo, although there were some women present. Other countries of origin that were represented were Zambia, Lesotho, Senegal, and Malawi. Most individuals were between the ages of 20 and 45 but during one visit we encountered a woman with a five-month-old child. During the night visits, we found that most of those waiting overnight were employed in the agricultural sector in seasonal farming. The

majority of those waiting overnight had travelled over two hours to reach the Maitland RRC and many had previously slept overnight at the RRC.

### **Organisation and Quality of Service**

Similarly to the day visits, the most common issues raised during our interviews revolved around a lack of information or incorrect information along with delays in service. Many individuals again seemed lost in the process, unsure of where they are supposed to be, what documents they are supposed to bring, or the next step in the asylum seeking process. Most interviewees lacked knowledge on numerous key issues regarding the general rights of asylum seekers and refugees, as well as the asylum seeking and appeal processes. This shows how necessary rights education sessions are when it comes to foreign nationals.

During all three night visits, there were complaints that the centre did not see enough clients each day, which led to individuals choosing to stay overnight at the centre in hopes of being seen early the next day. During one visit, three men complained that the RRC had scheduled an afternoon meeting but had not informed those waiting of this meeting until late in the afternoon when they had already been waiting all day to be seen. During another visit, a woman informed us that she had been waiting for service for two days and had missed four days of work due to the long waiting period and travel time.

### **Labour Concerns and Farm Workers**

Labour concerns were another large problem, as many of those at the Maitland RRC who were currently employed experienced wage losses for the days they must return to the centre. As stated above, many individuals present were seasonal farm workers. A common problem among these farm workers seemed to be that instead of receiving a corporate permit through their employers, for which the employer is responsible, individuals were being told to apply for refugee status with the Department of Home Affairs, where many of their claims would be found manifestly unfounded and, therefore, rejected. As long as they are waiting to receive a final decision from Home Affairs, which could be a significant amount of time given the current backlog, they are able to remain in the country legally to work without requiring their employer to obtain a

work permit. These employers seemed to be knowingly bypassing the corporate permit provisions of the Immigration Act.

### **Access to Food, Water, Sanitation and the Site**

Many respondents complained about having to sleep outside in the cold overnight. Several were unaware that they would be staying overnight at the centre and, because of this, they were unprepared and did not bring blankets, food or water. Others were prepared for a long, cold night and had brought blankets and warm clothing along with them to the site. Across the street from the Maitland RRC, there is a KFC and a Shoprite where food and water can be purchased but there was no access to free food or drinking water outside of the centre, leaving many individuals hungry and thirsty. Some explained that they were afraid to go and buy food for fear of losing their spot in the queue. Many respondents explained that they would not be able to buy food at the site because the only money they had with them would need to be spent on transportation.

General comments about the sanitation of the outside waiting area seemed favourable, except with regards to toilets. Many individuals explained that they wished that there were toilets available outside of the site that could be used by individuals waiting at the centre overnight. However, when asked about the toilets inside the site, individuals explained that, while there were enough toilets inside the centre, the unsanitary conditions made people reluctant to use them. Access to these toilets is not available after hours.

### **Issues of Vulnerability, Safety, Security, and Corruption**

Almost all individuals said that the security personnel at the sites were respectful and civil at the site. The only complaint received was from a woman who said that there were not enough security guards present at night, making her feel unsafe at the centre overnight. Like during our day visits, people explained that there were individuals running a scam that would move people ahead in the line for a fee, although it was stated that these individuals were not employees of the Department of Home Affairs.

## **Recommendations**

The recommendations below are based on our initial observations and are subject to change as we gain a better perspective on the operational systems at the Maitland RRC. Because we have not yet been granted permission to monitor the inside of the Centre or to speak with Home Affairs officials, it must be acknowledged that our recommendations are based solely on the observations made outside of the Maitland RRC and through second-hand accounts of individuals we spoke with outside of the centre. Many recommendations listed below have been referenced in a previous report written by the representatives of the Black Sash on 8 October 2010.

### **Organisation and Quality of Service**

Based on our initial observations and on individual testimonies, it seems as though the system is not running as effectively and efficiently as it could. This can be attributed to a lack of funding for the Maitland RRC or to an insufficient number of DHA officials present to process the ever-increasing amounts of asylum seekers present each day. We estimate that employing more staff and increasing the hours of operation may increase the number of applicants able to be seen each day which could, therefore, lead to an improvement in the speed and quality of service provided at the site.

We also recommend the use of a stamp or number system that would increase the efficiency and effectiveness of the queue management system. This would likely help to ensure that people are seen in the order in which they arrived and would help to diminish schemes that unfairly move individuals ahead in the queue. This stamp or number system could be used in a way that would allow individuals that were not able to be seen on the day they arrived to hold their place in line for the following day. This could prevent disorganization in the queue and disagreements over placement in the queue. It would also create less work for security or those responsible for managing the queue as they would not have to keep track of who was supposed to be served next.

In addition to the use of a stamp or number system, it may be appropriate to create a new appointment system that could help prevent refugees from going back and forth to the centre everyday or from sleeping overnight at the premises. It could also prevent individuals from taking unnecessary time off of work to visit the centre.

A system such as this was put into place previously. However, in light of a 2006 court case against the Department of Home Affairs (*case no. 12960/06, “K. Tafira and others v. Minister of Home Affairs and others”*), an appointment system was put into place by the Department in order to deal with the ever-increasing number of applications. Nevertheless, since it can take up to one year to procure an appointment, and since possessing an appointment slip does not create any rights for the asylum seeker, this practice was found unlawful and unconstitutional by the High Court. We, therefore, recommend that the Department create a new, lawful and constitutional appointment system. Such a system, if implemented, should be done in an unbiased, fair, and non-discriminatory manner, in accordance with the Refugees Act.

It is also recommended that the Department of Home Affairs lengthen the validity period of Section 22 permits. This would help to remove the need for frequent renewals and, therefore, would likely help to diminish the administrative burden implied by multiple renewals. For example, if the validity period were extended from three months to six months, individuals would only need to visit the centre once within this six-month period, instead of having to visit the centre twice in this period.

In addition, we recommend the implementation of special provisions for women and children, pregnant women, unaccompanied minors, disabled and elderly persons. Although the situation may be different inside of the centre, during our visits we noticed no special treatment or services for these vulnerable members of society. Examples of special provisions include, but are not limited to queue priority, handicap toilets and inside waiting opportunities.

Finally, the Black Sash CTRO recommends that there be a Home Affairs Official (or officials) whose main responsibility is to answer questions that security guards cannot answer. It is also recommended that this official be available to both those waiting outside of the centre, allowing them to explain the wait time, and inside of the centre, allowing them to prepare those waiting in the queue for the next step which could help to speed up the process. Our findings suggest that a large part of the problem is the lack of information or incorrect information provided to asylum seekers and refugees. Many issues such as these could be avoided if there was an official available to explain the process, the reasons for the wait time, and what was needed to complete the process. This

would likely reduce the number of applicants who had to return to the RRC because of missing documentation or other circumstances.

### **Access to Food, Water and Sanitation**

While we understand that it is not the Department of Home Affairs duty to provide food to its clients, an agreement with the food bank or another food provider that would distribute food to individuals waiting overnight at the centre would be welcomed. An example of an arrangement between the government and civil society would be the arrangement between civil society organisations providing assistance and relief at SASSA pay points, such as soup kitchens.

Although we have been told that water is available inside of the centre, there are often hundreds of people waiting outside of the centre and water could be provided outside, or, at the very least, signs should be present, making clear where the nearest water access point is.

Based solely on our observations and on personal testimonies, it seems as though the number of toilets is disproportionate to the number of applicants seen each day. Therefore, we recommend that the Department of Home Affairs increases the number of toilets available and makes sure that they guarantee the minimum standards of hygiene, by contacting health authorities. In addition, as stated above, the lack of facilities catering to the needs of the disabled and children should be addressed since they currently have difficulties accessing the toilets.

### **Issues of Vulnerability, Safety, Security and Corruption**

While the Black Sash CTRO realizes that violence can often be a two-way process, the accusation concerning the lack of security personnel present at the Maitland RRC should be investigated and further monitored. In addition to increasing the number of security present at the centre, special attention should be paid towards training in awareness and communication of security guards.

In order to effectively monitor the situation at the Maitland RRC, we recommend the use of cameras both inside and outside of the RRC. These cameras would likely be

helpful in preventing violence and corruption, as well as monitoring how officials solve disagreements and other issues.

While we did not hear many allegations of corruption at the Maitland RRC, the training of security guards and the monitoring of their behaviours could also apply to officials. This would help to increase the Department's credibility as a representative of the government and would likely prevent corruption from occurring.

## **Conclusion**

The Black Sash and its partner organisations are fully committed to monitoring and helping to assist those going through the asylum-seeking process. Through our previous visits, we have concluded that rights education sessions are necessary and plan to continue monitoring until our services are no longer needed at the Department of Home Affairs.

The Black Sash is still hoping to receive permission from Home Affairs to carry out several monitoring sessions on the premises of the Maitland RRC. This cooperation would allow the Black Sash to present a more rounded observation of the process as a whole, rather than basing our findings on individual observations and testimonies of those leaving or entering the site. In the meantime, we plan to continue our monitoring efforts and rights education programs as we feel that they are necessary and valuable to service users. If we are granted permission to monitor the Maitland RRC, we still plan to continue our monitoring efforts after-hours in order to obtain insight as to what is happening at the site after hours. Given the receptiveness of the clients and their general lack of information on the asylum seeking process and the rights granted to them, we feel that it is more than necessary to proceed with this program on a regular basis

It is extremely important to remember, recognize, and act on the reality that foreign nationals have personal rights and liberties by virtue of being human. Both Home Affairs authorities and those seeking refuge in South Africa must not defeat the spirit in which the legislature wrote the Refugees Act. They intended for refugees to have a humane and respectable treatment, contrary to what they are fleeing from. Refugees and asylum seekers are particularly vulnerable to abuse and human rights violations, often not being able to advocate for themselves. We find it crucial to attend to their situation and

protect their rights. The Bill of Rights “*enshrines the rights of ALL people in our country and affirms the democratic values of human dignity, equality and freedom.*”

This report has been written by Amanda Crissinger, an Intern at the Black Sash CTRO. The entire contents of this report do not necessarily reflect the opinions of the Black Sash or any other organisations affiliated with the Black Sash. Some of the contents of this report have been taken from previous Black Sash reports.

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