



---

**SACBC Parliamentary Liaison Office**

**Submission to the**

**Department of Home Affairs**

**on the**

**Amendments to Refugees Regulations**  
**(Forms and Procedure), 2000.**

**11 December 2014**

## **1. Introduction**

The Catholic Parliamentary Liaison Office is the division of the Southern African Catholic Bishops' Conference which engages in social policy and parliamentary advocacy. It is the vehicle for contact and dialogue between the Roman Catholic Church in South Africa, on the one hand, and the country's parliament and government on the other. Since 1997 it has provided an avenue for the Church – as part of civil society – to contribute to debates on issues of public policy, to exert an influence for common good on areas of political, economic and social concern, and to help shape legislative and policy developments. We welcome the opportunity to comment on the Refugees Regulations (Forms and Procedure), 2000.

## **2. Summary of submission**

We commend the Department for including the option for female and minor asylum seekers to request that either a male or a female official be assigned to their case. This is a thoughtful and useful addition to the form.

We broadly endorse the Scalabrini Centre's submission in respect of the new application form for asylum seekers. In particular we endorse their arguments about refugee's socio-economic status and any previous incarcerations that they may have undergone. Independently, we suggest that the Department consider creating an independent, anonymised survey tool for seeking data which, while useful, could compromise the initial application form.

## **3. Interview official preference**

- The new application form allows female or minor applicants to request a female official interview them. This is excellent.

This addition to the form is highly commendable. Refugees are often subjected to sexual assault and rape, and discussing such issues with a male official could potentially be a source of serious stress and emotional trauma. This alteration to the form is progressive and thoughtful.

## **4. Questions relating to applicant's financial status**

### **A3.1, A3.2, A3.3. B3.**

- Financial information is not relevant to asylum applications, and should not be included in this form.

Questions A3.1 to A3.3 request details of the applicant's education, employment and skills. Similarly, question B3 requests that the applicant provide bank account details and disclose the amount of funds they have available, as well as the details of any financial sponsors.

We agree with the Scalabrini Centre's argument in relation to question B3 that "The financial status of the applicant has no bearing on the protection needs of the individual and is irrelevant."<sup>1</sup> In determining the status of asylum seekers, the key consideration is whether they are at risk of violence, and thus can genuinely claim to be in need of protection from the host country. The asylum application process should be focused on efficiently determining this key question. A series of leading questions about the financial status of the applicant suggest that asylum seekers might be assessed on the basis of their ability to find employment or show proof of income. While this may well be a legitimate

---

<sup>1</sup> Scalabrini Centre of Cape Town, Submission in respect of first draft Amendment of the Refugees Regulation (Forms and Procedures), Page 6

avenue of inquiry when assessing the suitability of other types of migrants who are seeking highly skilled permits or job seeker permits, it is inappropriate when considering asylum seekers.

Securing the financial details of asylum seekers is also a problem. As the Scalabrini Centre correctly points out, corruption at refugee processing centres means that asylum seekers could potentially be subjected to fraud or identity theft<sup>2</sup>. In any event, best practice for storing sensitive financial data generally involves secure data centres using encryption technology. Storing such data correctly comes with significant financial and administrative costs.

Finally, there are serious questions around the privacy of asylum seekers. They do have a right to privacy, and while they naturally should answer any legitimate questions needed to assess their cases correctly, financial questions are not relevant to this assessment.

## **5. Questions around arrests**

### **A4**

- Questions around asylum seeker's previous arrests are necessary, but should be added to in order to understand the context in which the asylum seeker has been arrested, so that victims of political repression are not mistaken for criminals.

The Scalabrini Centre notes correctly that it is vitally important to understand the context within which asylum seekers have been arrested.<sup>3</sup> Asylum seekers coming from particularly repressive regimes may well have been forced into exile by repeated harassment and threats that can include arbitrary and repeated detention. South Africa's own history is an excellent demonstration of this – anti-Apartheid activists were often arrested and imprisoned. The same is true in many authoritarian regimes around the world right now.

It is entirely legitimate for the Department to inquire into the criminal records and legal situations of asylum seekers but it is vital that this be done while understanding the context of these arrests and criminal records.

We recommend that a further set of questions establish whether a) the asylum seeker in question was convicted of any crimes and b) what the circumstances and details of their arrest and detention were. People detained for engaging in legitimate free speech or political activism should not have their applications prejudiced.

## **6. A separate survey tool**

- The Department should conduct a separate survey for gaining useful sociological information, as opposed to information necessary for adjudicating the asylum application.

We understand that the Department needs accurate data about asylum seekers and refugees, both for adjudicating asylum applications and for informing policies around immigration. We appreciate that concerns around possible abuse of the asylum system by economic migrants are a serious question for the Department, and that further data on such issues would be of value to the Department.

We suggest that the Department should consider creating a separate survey process for gathering general data on migrants, rather than merging this into the adjudication process. We suggest that the

---

<sup>2</sup> Scalabrini Submission, Page 6.

<sup>3</sup> Scalabrini Submission, Page 6.

Department create a second, voluntary and anonymised survey that can be administered by officials concerned with research on migration trends and policies.

This new survey could generate useful data for understanding the challenges and situations faced by immigrants, but should be clearly separated from the adjudication process. Allowing officials responsible for determining immigration status to access socio-economic data on the individual applicant before them risks introducing bias into the process, even if the officials are tasked with solely considering the pertinent factors of the application – which do not include socioeconomic status. Information necessary for assessing the asylum seeker’s status must be kept separate from information that is useful for administration, or for general research.

---

**For further information please contact  
Mayibuye Magwaza  
SACBC Parliamentary Liaison Office  
Cape Town  
mayibuye@cplo.org.za  
11 December 2014**