



## 2018 World Refugee Day and South Africa's Stance

### 1. Introduction

Wednesday 20<sup>th</sup> June marked World Refugee Day for 2018. Recent reports have indicated that there were 68.5m refugees across the world at the end of 2017, 2.9m more than at the end of 2016. This is the biggest increase for any given year, according to the UN High Commission for Refugees (UNHCR). Two thirds of the refugees come from just five countries, namely, Syria, Afghanistan, South Sudan, Myanmar and Somalia.<sup>1</sup>

According to UNHCR, Africa had 24m people displaced because of conflict, persecution, human rights abuses and food insecurity at the end of 2017.<sup>2</sup> On the Sunday following World Refugee Day, Pope Francis asked governments to ensure that migration was safe, legal and humane.

### 2. The Contested Politics of Refuge

This year's observance of World Refugee Day took place amidst political controversy. So for example, the week before, US Attorney General Jeff Sessions had ruled that immigration judges could not consider domestic violence or rape as grounds for asylum. The US Catholic Bishops' Conference spoke of their concern that very vulnerable women would be stripped of protection. Cardinal Daniel di Nardo urged U.S. courts and policymakers "to respect and enhance, not erode, the potential of our asylum system to preserve and protect the right to life."<sup>3</sup>

Donald Kerwin of the Centre for Migration Studies commented that this was just another example of the "attempts to limit protection in the USA of people fleeing violence, conflict or political oppression starting with cuts in the refugee resettlement program, the evisceration of temporary protected status, and the denial of

access to the asylum system at the US/Mexico border."<sup>4</sup>

On 19<sup>th</sup> June the Mexican Bishops' Conference joined international outrage at the Trump administration's policy of separating children (including babies) from their families at the border with Mexico. At that time 2 300 children were being detained, many in cage-like structures. Pope Francis was amongst those who condemned the policy, while the US Bishops called it immoral.<sup>5</sup>

"Refugee children belong to their parents, not to the government or other institution. To steal children from their parents is a grave sin, immoral (and) evil," said San Antonio's Archbishop Gustavo Garcia-Siller on 14<sup>th</sup> June.<sup>6</sup>

Fortunately, President Trump bowed to pressure and signed an executive order reversing this policy and guaranteeing that families would be detained together as far as available resources allowed and the law permitted.<sup>7</sup> At the time of writing, however, the fate of those children presently in detention remains unclear.

In Hungary on World Refugee Day the country's parliament passed a package of laws that would effectively criminalise acts of help to undocumented migrants. In terms of the new law, helping migrants to legalise their status by assisting them financially or by distributing information about the asylum process could result in a 12 month jail sentence.<sup>8</sup> Prime Minister Viktor Orban has already built a border wall to keep immigrants out.

In that same week, both Italy and Malta refused permission to a ship bearing refugees rescued from the Mediterranean to dock in their respective countries. The French charity ship 'Aquarius' was initially refused entry as the new Italian government declared that refugee ships could not

dock at its ports as Italy wanted to stamp out trafficking in persons. Malta also refused permission, and the ship finally docked in Valencia, Spain. A few days later a similar scenario played out as the same countries refused to allow a German ship carrying 300 refugees to dock.<sup>9</sup>

### 3. The South African Government's Stance

It is little wonder that Home Affairs Minister Malusi Gigaba, in his World Refugee Day speech at Constitutional Hill, had this to say: "Hardening official attitudes to refugees by governments, and in the political discourse, of several wealthy countries in the global North should concern us all."<sup>10</sup>

Minister Gigaba spoke to the refugee community, civil society organisations and NGOs on South Africa's response to the plight of the refugee community. He used words from both Nelson Mandela and Steve Biko that echoed what was a *leitmotif* throughout the speech, namely, the challenge to provide 'a more human face' in the midst of this crises. He stressed that this was in great measure a commitment to offer the best protection for vulnerable refugees and to ensure that their human rights were respected and actioned. In an important policy clarification, he said:

'On this day, we need to redouble our efforts to develop a positive approach to refugee protection globally. Such an approach needs to respond to displacement with legal channels of migration, rather than fear-based, fragmented and draconian responses which have consigned asylum seekers to further hardship and appalling conditions in many cases.'<sup>11</sup>

Civil society organisations have long argued that options for legal channels of migration should be explored, and that ideas such as 'low skill' visas should be a part of a set of policies that would provide for more regulated entry into the country and thereby unclog the asylum system. Such an approach would address in large measure the Minister's concerns, mentioned in his speech, about economic migrants abusing the asylum system. Likewise, the current fragmented, or 'silo', approach to serving the needs of the refugee community has long been a source of dissatisfaction and frustration; it has also opened spaces for individual departments to develop

surreptitious practices contrary to the overall approach of SA to the issue, and in violation of our Constitution's requirements and our international commitments. Advocate Frank Ntwali, speaking to the Minister on behalf of the refugee communities, mentioned this 'silo approach' as one of the key practical problems faced by refugees.

The Minister correctly pointed out that "the solutions... must be found in inclusive development, consolidation of democracy, conflict prevention and resolution, and efforts to mitigate and adapt to climate change."<sup>12</sup> In the meantime, however, the existence and movement of refugees is a reality that the government has to face up to. In support of his assertion that SA is committed to enhancing its political will to deal with the problems in this field, to increase protection and strengthen the human rights of refugees, and thus show a 'human face', the Minister pointed to four core commitments by the government.

#### 3.1. Mixed migration flows

In one of his clearest policy options to date, Mr Gigaba spoke of a commitment to sorting out the contentious area of mixed migration flows.

"Our new international migration policy presents a new approach to better manage irregular and economic migration, through regularisation of existing migrants already residing in South Africa, and creating new visa options for citizens of neighbouring countries to reside in South Africa legally. It is hoped that these improvements will reduce the number of unfounded applications, particularly by economic migrants, and improve speedy adjudication of asylum claims."<sup>13</sup>

The regularisation of existing migrants and the introduction of new visas for (presumably) SADC countries are important contributions to the policy options and towards the treatment of vulnerable groups with dignity.

#### 3.2. Reception centres

Mr Gigaba underlined his commitment to improving and expanding the use of technology, especially at the reception centres where, he acknowledged, there was frequent chaos and corruption. In an unscripted comment he said that naming the Marabastad, Pretoria reception centre after Archbishop Desmond Tutu, who had spoken

so consistently and forcefully against corruption and exploitation, when the centre had in fact gained notoriety for the very opposite of the Archbishop's values and witness, was an insult to the Archbishop. But, "the implementation of an automated booking system with self-extension capability has completely transformed the office and alleviated huge frustration for asylum seekers. These innovations are being rolled out to other refugee reception offices such as Musina, Cape Town and Port Elizabeth."

The Minister also announced that a new refugee reception centre would be opened in Port Elizabeth in October this year. This provided the first indication of compliance with court orders for the DHA to re-open those centres, which have been closed for the past few years. To date the process of re-opening has been stalled by a number of logistical problems and – some have thought – due to a lack of political will.

It is especially encouraging that the new centre will have "a streamlined process flow, as well as open spaces, baby-changing stations, and multiple ablution facilities." This announcement meets a long-standing frustration that not only was the process, mired as it was by uncertainty, exploitation and political expediency, dehumanising – but the environment and physical conditions around the centres were also deeply undignified. The improvement of various institutional arrangements that promote and respect dignity is a crucial foundation for all engagements with this and every community.

In particular, there needs to be very special attention given to the protection of children. This includes ceasing to detain children and exploring other means of protecting them. Pope Francis recently tweeted: "Children forced to flee, especially if fleeing alone, are most defenceless and vulnerable. Let's pray for them and help them."

### **3.3. New travel documents**

Minister Gigaba reminded the audience that "in November we launched a new travel document for refugees, with improved security features, which is compliant with International Civil Aviation Organization (ICAO) and UNHCR standards."<sup>14</sup> Amongst other advantages, this enhances the protection and security of refugees. Protection has emerged in all recent discussions as the key element for displaced persons. This ranges from

personal safety and working conditions, to the possession of legal documents and access to information about rights and responsibilities in the host country.

There is currently a discourse in some quarters that seeks to oppose protection of the rights of migrants and displaced persons against state sovereignty. Contrary to this is the logic proposed in a 2016 UN Chronicle that concludes: "Developing effective laws that manage migration in such a way that upholds the rights of migrants benefits both the migrant and society as a whole. Respect for the international legal framework thus leads to enhanced respect for the individual as well as for national legislation and institutions."<sup>15</sup>

### **3.4. Sharing the burden**

The other important issue that the Minister raised was the issue of burden-sharing, which is also at the heart of the draft Global Compact for Refugees and the draft Global Compact for Migrants. The Minister stated: "The international community of nations must come together to forge a positive, co-ordinated response to the challenge of refugees. Wealthy countries must do more to assist with refugee resettlement."<sup>16</sup> The faith community has long supported this challenge, based on the theological principles of the universal destination of goods and the virtue of solidarity. It is the only sustainable way to ensure a dignified future for all displaced persons.

Pope Francis echoed these sentiments recently when he said: "Church organizations must commit themselves to ensuring that, as a sign of shared global responsibility, concrete engagement follows from the words made in international agreements"; and that the Church "must encourage countries to co-ordinate more suitable and effective responses to the challenges posed by issues of migration."<sup>17</sup>

## **4. Conclusion**

The Minister's commitments are important and he has set a standard not only for his department but for the network of government departments and agencies that deal with displaced persons. He has also provided benchmarks to which the government will be held accountable. It must be said, though, that some of these commitments have been made before, and have not always been carried through into actions that improve the

situation of refugees on the ground. The implementation of the Minister's plans will therefore have to be monitored carefully.

As people everywhere find appropriate ways to express solidarity with displaced persons, we would do well to ponder a recent tweet of Pope Francis: "To solidarity with migrants and refugees, let's add courage and creativity."

---

**Peter-John Pearson**  
**Director**

---

<sup>1</sup><https://www.americamagazine.org/politics-society/2018/06/20/there-were-69-million-refugees-last-year-what-being-done-help-them>

<sup>2</sup><http://www.home-affairs.gov.za/index.php/statements-speeches/1141-address-by-the-minister-of-home-affairs-mr-malusi-gigaba-mp-on-the-occasion-of-the-world-refugee-day-at-constitution-hill-johannesburg-on-20-june-2018>

<sup>3</sup> Ibid

<sup>4</sup> Ibid.

<sup>5</sup> <https://www.ncronline.org/news/people/mexican-bishops-decry-us-policy-separating-families-border>

<sup>6</sup> <https://www.ncronline.org/news/justice/bishops-across-us-condemn-separation-detention-migrant-children>

<sup>7</sup> <https://www.ncronline.org/news/justice/trump-signs-order-keep-migrant-families-together-zero-tolerance-place>

<sup>8</sup> <https://www.nytimes.com/2018/06/20/world/europe/hungary-stop-soros-law.html>

<sup>9</sup> <https://www.albawaba.com/news/malta-italy-refuses-refugees-ship-dock-their-ports-1149334>

<sup>10</sup><http://www.polity.org.za/article/dha-malusi-gigaba-address-by-minister-of-home-affairs-on-the-occasion-of-the-world-refugee-day-constitution-hill-johannesburg-20062018-2018-06-20>

<sup>11</sup><http://www.home-affairs.gov.za/index.php/statements-speeches/1141-address-by-the-minister-of-home-affairs-mr-malusi-gigaba-mp-on-the-occasion-of-the-world-refugee-day-at-constitution-hill-johannesburg-on-20-june-2018>

<sup>12</sup> ibid

<sup>13</sup> ibid

<sup>14</sup><http://www.polity.org.za/article/dha-malusi-gigaba-address-by-minister-of-home-affairs-on-the-occasion-of-the-world-refugee-day-constitution-hill-johannesburg-20062018-2018-06-20>

<sup>15</sup><http://www.polity.org.za/article/dha-malusi-gigaba-address-by-minister-of-home-affairs-on-the-occasion-of-the-world-refugee-day-constitution-hill-johannesburg-20062018-2018-06-20>

<https://unchronicle.un.org/article/protection-migrants-rights-and-state-sovereignty>

<sup>16</sup><http://www.home-affairs.gov.za/index.php/statements-speeches/1141-address-by-the-minister-of-home-affairs-mr-malusi-gigaba-mp-on-the-occasion-of-the-world-refugee-day-at-constitution-hill-johannesburg-on-20-june-2018>

<sup>17</sup> <https://cruxnow.com/vatican/2018/03/08/pope-calls-international-community-tackle-global-migration-crisis/>