

Experiences of a Hidden Population: Life Stories of Refugees within Pietermaritzburg, KwaZulu – Natal

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Declaration

This study was undertaken in fulfilment of a Geography Master of Science Degree and represents the work of the author. Where use has been made of work of others it is duly acknowledged in the text.

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List of Acronyms

AI	Amnesty International
ARV	Antiretroviral
DHA	Department of Home Affairs
DRC	Democratic Republic of Congo
EU	European Union
FBOs	Faith-Based Organisations
HRW	Human Rights Watch
ID	Identity Document
IDPs	Internally Displaced People
IMF	International Monetary Fund
KZNCC	KwaZulu - Natal Christian Council
LHR	Lawyers for Human Rights
MCC	Msundusi City Council
NCRA	National Consortium of Refugee Affairs
NGOs	Non-Governmental Organisations
OAU	Organisation for African Unity
PACSA	Pietermaritzburg Agency for Christian Social Awareness
PCF	Pietermaritzburg Christian Fellowship
PRC	Pietermaritzburg Refugee Council
RPC	Refugee Pastoral Care
RRO	Refugee Reception Office
RSA	Republic of South Africa
SAPS	South African Police Service
SDO	Status Determination Officer
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency for Palestinian Refugees in the Near East

USA
WB

United States of America
World Bank

Abstract

Refugees, as forced migrants, have suffered displacement under conditions not of their own choosing, rather from a lack of choice, finding themselves in new settings, new places and new hardships. When refugees abandon their own home, community and country, they do so because there is a probability of losing all rights and face being murdered, tortured, raped, imprisoned, enslaved, robbed or starved. This thesis investigates the lives of refugees in Pietermaritzburg. More specifically, the thesis examines why and how refugees come to Pietermaritzburg, how refugees are treated (by locals to public officials), the hardships that refugees face, and their livelihood options. The main method used was the life story approach, whereby the refugees wrote their own life story, providing detailed information and an in-depth understanding of their hard and often tragic experiences. After entry into South Africa various hardships are experienced. A major difficulty is the application process, whereby South Africa has failed to adequately manage the flow of asylum seekers into the country and is faced with a serious backlog of refugee claims. In KwaZulu-Natal alone 35 137 applications were received at the Durban Refugee Reception Office with 27 539 of those pending. Refugees in South Africa are perceived by the public as criminals, 'job stealers' and are often used as a scapegoat for the country's social problems. This thesis presents a framework to better understand the problems experienced by refugees, as well as some policy recommendations to remedy the situation. It provides a detailed account of the stories of refugees in Pietermaritzburg and the lack of assistance offered to a growing population of concern.

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Chapter One

Introduction

1.1 Study Context

The movement of people from one country to another, known as migration, is a global phenomenon with significant local and regional impact. Migration across the globe is a complex social, political and economic issue that poses many challenges for all nations (Maharaj, 2002). The “movement of people, ideas, and goods (new patterns building on and transforming the old) are challenging the criteria for social and political membership across the globe” (Landau, 2006: 126). While migration is not a new phenomenon, in the last twenty years it has become massively globalised, and has affected national politics in an unprecedented manner (Worth, 2006).

The multifaceted nature of migration requires analyses from related spheres such as development, trade, human rights, disaster response, health and the environment. This is to be done at the local, national, regional and global scale (International Organisation for Migration, 2007). However, there are two main categories of migrants: those that move voluntarily, and those that are forced. Forced migration is the theme of this thesis, with a particular focus on refugees. According to Landau (2004:16) “refugees are part of a complex migratory phenomenon, in which political, ethnic, economic, environmental and human rights factors combine and lead to population movements.”

Refugees constitute the rapidly shifting world in which we live, a by-product of war and persecution. Refugees, as forced migrants, have suffered displacement under conditions not of their own choosing, rather from a lack of choice, finding themselves in new settings, new places and with new hardships (Worth, 2006). Refugees live in a divided world: between countries in which they cannot live and countries in which they may not live (Moorehead, 2005). When refugees abandon their own home, community and country, they do so because there is a probability of losing all rights (Worth, 2006).

One of the many challenges facing the refugee protection regime is that of determining who is a genuine refugee. Due to the close relationship between political conflict and economic and social problems, it proves difficult to distinguish between refugees and migrants. The complicated relationship between voluntary and forced migrants challenges all asylum systems worldwide (Martin, 2001). Refugees and illegal immigrants are increasingly being confused and increasingly being treated in the same way (Martin, 2001; UNHCR, 2007).

Every year hundreds of thousands of people are displaced as old problems remain unresolved and new ones emerge. Refugees everywhere are by-products of war, military coups, massive human rights violations, political instability and unrest. Africa, a continent plagued by long-standing conflict, famine and war, is a primary refugee-producing and refugee-receiving region (Loescher, 1993). As the developed world contracts its welcoming arms and more stringent tools and

policies are put in place to hinder the entry of asylum seekers, Africa is faced with an escalation in the number of asylum seekers and refugees and increasing pressure on its already scarce resources. The South African experience has been no different, and this is the focus of this study.

1.2 Geographical Orientation

Human rights are not a new phenomenon, nor a new paradigm; rather human rights have formed the foundation of many policies and national constitutions. Yet today have they only come to the fore with more attention and importance than ever before. Human rights are embedded in social, institutional and spatial contexts. In order to realise geography's "potential as a scholarly discipline examining the human condition, geography needs to focus on human rights ... Likewise, the study of human rights ... needs the nuanced sensitivity of geography" (Honey, 2004:730).

Refugees are a product of massive human rights abuses, and not only in their country of origin but to often in the country of refuge. South Africa has been praised for its progressive human rights policies, yet actions show that South African as a people have not progressed beyond the Constitutional rhetoric (Maharaj, 2007). Rather events such as those of May 2008 whereby refugees were set alight, houses burnt down and livelihoods destroyed (Mail and Gaurdian, 24.05.2008) tell a different, but a very real and tragic story. This thesis

examines the life stories and experiences, the trials and tribulations, of refugees in Pietermaritzburg.

1.3 Review of Research

There is a growing body of research on refugees across Africa and particularly South Africa. Research on refugees in South Africa is relatively new as South Africa is a relatively new refugee hosting country. However, currently research on refugees includes the work of Amisi and Ballard (2005) who investigated Congolese refugee's mobilisation, organisation and growing discontentment with the South African government in light of challenges faced in South Africa such as lack of documentation, rising levels of xenophobia and abuse of refugee rights. Landau is one of the leading researchers and specialists in the field of forced migration providing much research on refugees in South Africa as well as elsewhere in Africa. His work includes research on forced migrants living in Johannesburg, effects of refugees and humanitarian aid on Western Tanzania's, a review of approaches to assist refugees in Western Cote d'Ivoire. Campbell (2005) provided a study on urban refugees in Nairobi looking at issues of protection, survival and integration. Hence, a characteristic of research on refugees is the far reaching nature of such research as it includes many themes and investigates the many processes making up the complex phenomenon of refugee movements.

1.4 Rationale for the Study

We are like travellers navigating an unknown terrain with the help of old maps, drawn at a different time and in response to different needs. While the terrain we are travelling on, the world society of states has changed, our normative map has not. I do not pretend to have a new map to replace the old one, but I do hope to contribute to a better understanding of the salient fault-lines of the unknown territory which we are traversing. The growing normative incongruities between international human rights norms, particularly as they pertain to the “rights of others” – immigrants, refugees, and asylum seekers- and assertions of territorial sovereignty are the novel features of this new landscape. (Benhabib, 2004: 6)

The United Nations High Commissioner for Refugees (UNHCR) is the primary protector for asylum seekers and refugees. It requires the action of all society to better the lives of those seeking refuge in new nations. There are no ‘quick-fixes’ to the refugee problem, nor are there overall permanent solutions (Loescher, 1993). Nonetheless, the need exists to deepen one’s understanding as the Hon. N.N. Mapisa-Nqakula, Republic of South Africa (RSA) Minister of Department of Home Affairs (DHA) (2006) emphasised:

It is difficult for anyone who has never been forcibly displaced to imagine what it is like to be a refugee. Yet, to fully respond to the needs of millions of displaced persons world wide, that is what we must all try to do. Most refugees are ordinary people living extraordinary lives: driven from their homes by fear, conflict and persecution. They have had to give up jobs, possessions, dreams, even families in their struggle to survive. They need assistance and protection. They need understanding. (www.home-affairs.gov.za/speeches)

It is important to study the 'problem' of refugees as refugees have a direct impact on aspects of international and national politics, human rights, development and policy making (Haddad, 2008). As a human geographer, an academic as well as an active agent of change, it is more than research that one is after. Rather, it is the hope that there may be a fundamental change in the way society acts and/or the way policies are developed and implemented (Hoggart, Lee and Davies, 2002). The approach adopted for the study, critical theory/geography "promotes (and celebrates) the collapse of boundaries between researcher and researched, employing strategies that will empower marginalized groups to seek justice either themselves or through research" (Kitchin and Hubbard, 1999: 195). Therefore the research is a combination of three elements: research, participation followed by action.

The words 'they [the refugees] need understanding' resonate with the intention of this thesis. Pietermaritzburg, a refugee-receiving town away from 'mainline' organisations yet home to approximately 2000 legal refugees.

1.5 Structure of Thesis

The Structure of this thesis is as follows:

- Chapter One provides an introduction to the study, how the subject matter fits into geography and a brief outline of the philosophical framework.
- Chapter Two provides an overview of the conceptual and theoretical framework. It also provides a literature review about refugees on a global,

regional and national context. There is a specific focus on the obstacles that refugees face in the contemporary world, and more specifically in South Africa.

- Chapter Three provides a brief description of the study area, the aims, objectives and critical questions to be answered. It provides an explanation of the methods adopted, while acknowledging the associated limitations.
- Chapter Four presents the results and evaluation of the research.
- Chapter Five presents the recommendations and conclusions to the study.

Chapter Two

Conceptual Framework and Literature Review

2.1 Introduction

This chapter presents the conceptual framework and provides a review of the literature on refugees in an international, regional and national context. The refugee phenomenon is complex, and any scholarly analysis requires a multi-disciplinary approach. The first section of this chapter provides the framework upon which this thesis rests: the philosophical approach of critical geography and the conceptual framework of human rights. The second section provides a background to the study. It defines the subject of the research, that of forced migration and who qualifies as a refugee. The third section provides a review of forced migration on a global scale, with the fourth section focusing specifically on African experiences. The concluding section offers an in-depth analysis of South Africa as a host country for thousands of refugees.

2.2 Conceptual Framework

“Human geography; like other social sciences responds to the wider society and its intellectual content” (Smith, 1994: 11). Since the publication of Harvey’s seminal work, Social Justice and the City, social justice has become a central theme in human geography (Lee, 2004). This is not to be viewed as an alternative to a (social) scientific perspective, but is intended to “complement, supplement, the emphasis on science in an education system which tends to

leave moral issues to religious instruction or to consign them to certain fields of study” (Smith, 1994:19).

The philosophical approach guiding this research is that of critical theory/critical geography. Critical theory seeks to identify the connections that exist between social theory and social processes, seeking to transform social processes that exist (Cloke, Philo and Sadler, 1991). This approach examines the diverse socio-spatial processes that control and reproduce social exclusion. The focus of critical geography has evolved from capital-labour relations to the socially disadvantaged and marginalised (Kitchin and Hubbard, 1999). There has been a growing sense that “geographer’s research on social oppression and exclusion should be sensitive to the life experiences of marginalized groups” (Kitchin and Hubbard, 1999: 195). Hence, it is a theory that cultivates a geography that is socially and politically aware (Kitchin and Hubbard).

2.2.1 Human Rights

The litmus test of the morality of any society is how it provides for its most vulnerable members. (Machingambi, 2007 personal communication)¹

Human rights form the basis of many policies, conventions and state constitutions: a right to education, to a clean and healthy environment, a right to safety and the most basic right of all, a right to life (a good example would be the

¹ Email communication Nyari Machingambi from Lawyers for Human Rights (LHR), 14 September 2007

Constitution of the Republic of South Africa, Act 108 of 1996). Rights must contribute to the well-being of humans if they are to be highly valued.

To say that people have a right is to require them to be treated in a certain way, to obtain something to which they are entitled or at least to raise this expectation “if we are to treat people as equals, we must protect them in their possession of certain rights and liberties” (Kymlicka, 1990 cited in Smith, 1994:35). Rights must contribute to the well-being of humans if they are to be highly valued and struggled for, as is seen in many parts of the world (Smith, 1994).

Rights are unique, and are different from what is usually referred to as needs or wants. A right is an “obligation rooted in various social or institutional contexts where expectation has moral force” (Smith, 1994:36). The law governing human rights “applies to all individuals by virtue of their humanity” (Roxstrom and Gibney, 2003: 39). Human rights are possessed by everybody everywhere on the simple premise that everyone is human. People are equally entitled to human rights regardless of their gender, race, colour, language, national origin, age, class or religious or personal creed (Selby, 1987; Smith, 1994; Ishay, 2004).

Often rights have emerged out of struggles and contestations. All societies struggle over human rights, claims of universality notwithstanding, as they debate the nature of the just society, as they grapple over competing ideals and their implementation (Honey, 2004). What can be seen in the emergence of universal

rights is a culmination of considerable struggle and contestation. There have been struggles over what is just and what is fair, over entitlements, over obligations; over protection; and inevitably a struggle over what is encoded as a right that all people should have because of their common humanity. Hence, “despite the claim of universality, the list of internationally recognised human rights is changing rather than fixed, fluid rather than permanent” (Honey, 2004: 154). Universal human rights have a context-transcending appeal, although there is a contradiction, maybe even “fatal tension” (Cole, 2000 cited in Benhabib, 2004:19), between the “expansive and inclusionary principles of moral and political universalism, as anchored in universal human rights” (Benhabib, 2004:18-19).

Universal human rights apply to everyone in definition, at least in principle, yet many of the rights that matter most to people depend on an institution, or a ‘decider’. In many cases this is the government, and within them often local government (Smith, 1994). Hence, the outcome is often one of contest regarding the applicability of the word ‘universal’; resulting in rights that exist in international and domestic agreements to be socially constructed rather than a given (Brown and Patman, 2000; Honey, 2004).

The progress of human rights has varied since the United Nations Universal Declaration of Human Rights on the 10 December 1948. There has been an increase of social movements advocating for peoples rights in society. Advocacy

groups, often Non-Governmental Organisations (NGOs), and increasingly Faith-Based Organisations (FBOs), have helped turn human rights into a powerful critique of state sovereignty (Ignatieff, 2003; Owen, 2003; Honey, 2004). Organisations such as Amnesty international (AI) and Human Rights Watch (HRW) have exposed human rights abuses in many countries (Ignatieff, 2003; Gready, 2004). It is such organisations that have helped the formation of a Global Human Rights Network, assisted by the revolution in communications, which has brought attention to the victims of war, to the disabled, to the plight of indigenous peoples, and the plight of refugees.

2.2.2 Human Rights and Refugees

It is the current refugee phenomenon that brings to the fore the very tension between “the state prerogative to exclude and the human rights imperative to include” (Haddad, 2008:1). However, there has been some concern that attempts to address the human rights of refugees have been mixed:

Refugees and internally displaced people, however, are regrettably often the forgotten victims of human rights violations. The human rights issues raised by forced displacement have not been addressed in the same depth as other grave human rights issues, such as depriving people of their liberty for political reasons or the use of torture in gathering intelligence ... we take it for granted today that intentionally killing civilians is a violation of the law and ethics of warfare. (Hollenbach, 2008:1)

The ‘reality’ of the refugees’ experiences is a tale of individual human rights. This includes abuses and failures which result in movement of person(s), the

obligations of states in light of such movement, to the rights required to create a life in countries of asylum (Nicholson and Twomey, 1999). Forced displacement “violates peoples most basic human rights in multiple ways ... most have been displaced into settings where conditions fall far short of what is required to live with basic human dignity” (Hollenbach, 2008:1).

The refugee protection regime is based on human rights, such as the right of asylum (Chimni, 2000). Although human rights form one of the pillars within refugee protection, it was only in 1990 that the divide between human rights and refugee protection was formally acknowledged (culminating in an address by the High Commissioner of Refugee Affairs to the Human Rights Commission) (Chimni, 2000). However, one concern is that human rights will only be guaranteed when in favour of the politically strong (Pollis, 2004). The following statement made thirty years ago in 1977 by the Trilateral Commission still remains a concern today: “In many cases, the support for human rights will have to be balanced against other important goals of world order” (Pollis, 2004: 343). As for refugees, it is a statement like this that swings their future between a pendulum of hope and despair.

2.3 Defining Refugees

It is essential to define who qualifies for refugee status and who does not. This is the single most important label for the livelihood of a refugee, because it determines which rights and benefits will or will not be acquired. The definition

that is used worldwide was formed by the umbrella body for worldwide refugee affairs: the UNHCR. It is within this body that the Convention Relating to the Status of Refugees was approved on 28 July 1951 followed by its protocol in 1967 (Newman and van Slem, 2003). The United Nations Convention Relating to the Status of Refugees on 28 July 1951 defines a “refugee” as any person who

Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling, to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (Article 1 of the UN Refugee Convention, 1951).

It is this definition which has formed the cornerstone of the international response to forced migration for the past four decades (Steinbock, 1999). However, the criteria for recognition as a refugee, using this definition has been criticised as Eurocentric as it focuses on individual persecution alone. In order to counter these perceived notions the African Union, predecessor of the Organisation for African Unity (OAU), expanded the definition in 1969, culminating in the Convention Governing the Specific Aspects of the Refugee Problem in Africa (Tuepker, 2002), which broadens the UN definition by adding that:

The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality

is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

The OAU definition emerged in response to the displacement arising from numerous conflicts in the postcolonial era. The OAU amendment added flexibility as well as complexity to the UN's definition. The latter because a person may be recognized as a refugee in Africa but may not be recognized as one elsewhere (Amera, 2006). The primary difference between the UN definition and the OAU definition is the recognition of mass persecution that has resulted in many of the current asylum claims. The UN definition favours the asylum seeker who can show how he or she has been singled out for persecution, even though many academics question the reliability of such notions (Tuepker, 2002). The OAU definition, on the other hand, is said to be more realistic, especially in light of events taking place in Africa. Therefore there is a wider use of *prima facie* asylum determination, so that person(s) can be granted refugee status simply by being a citizen of a particular country (Tuepker).

Whilst these two instruments form the cornerstone of refugee protection, current literature such as Bayefsky and Fitzpatrick (2000) and; Chimini (2000) indicates that there is now a greater emphasis on international human rights. Unique and important as these legal institutions and conventions are relating to refugees; they are still embedded in the broader international human rights protection regime (Turk and Nicholson, 2003). It is now normal for UNHCR to look at refugee law as part of this broader framework (Edwards, 2005). States are now

bound to collective responsibility and accountability, with recognition that the individual is an inherent bearer of human rights, refugee status or not. It is the on-going development of international human rights law subsequent to the adoption of the 1951 Convention that has helped to advance the understanding of persecution and the role of states (Turk and Nicholson, 2003).

2.4 Refugees in a Global Context

There have been various concerns about the safety, security and rights of refugees for several decades, with considerable flows from all corners of the globe. While there has been a great deal of focus on refugees after the Second World War, history is characterised by a seemingly repetitive cycle as shown by: Russian refugees in the 1920s, Jewish refugees in the 1930s, Vietnamese refugees in the 1970s, Rwandan refugees in the 1990s, and Zimbabwean refugees in the Twenty-First Century (Haddad, 2008).

2.4.1 The Umbrella Body: the UNHCR

The UNHCR is arguably the most powerful UN humanitarian agency today. With the contemporary shift in responsibility from individual states to multilateral agencies, the UNHCR plays a key role in the international refugee regime (Hyndman, 2000).

The UN Conventions relating to refugees form the core principle global instruments for the international protection of refugees. They have legal, political,

and ethical implications (Turk and Nicholson, 2003). The Conventions set a universal framework within which states can co-operate and share the burden resulting from forced displacement. It also determines that states that are party to the Conventions and/or its 1967 Protocol have a commitment to uphold individual human rights (UNHCR, 2006a).

The Conventions set out the rights of refugees such as the right to wage-earning employment (Article 17), self-employment (Article 8), freedom of movement and residence (Article 26) (UNCHR, 2006). Its specific purpose is to ensure that those whose basic rights are not protected (for a Convention reason) in their own country, if able to reach an asylum state, are entitled to invoke rights of substitute protection in any state which is party to the Convention. Thus, a decree separate to that of immigration law was set up, whereby this refugee edict is a system for the substitute protection of human rights (Hathaway, 2005).

Although UNHCR has been praised for its cornerstone principles, recently these very doctrines have come under increasing threat. In a world which has grown increasingly hostile to asylum seekers and refugees, the very relevance of the Convention has been questioned (UNCHR, 2006). Criticism of the Convention includes the notion that it is outdated, irrelevant, unworkable and inflexible. Several states argued that the Convention did not adequately address the needs of refugees (UNHCR, 2006). Many look to the convention as a solution to the refugee 'problem'. However, the Convention was not and is still not designed to

tackle the root causes of the refugee phenomenon. Rather, it tries to alleviate their consequences by offering a degree of legal protection enshrined in the UN conventions (Edwards, 2005). With regard to the effectiveness and efficiency of these international instruments to protect refugees, it is host governments who are ultimately responsible. Host governments also have the task of separating the various groups of migrants so that genuine refugees are treated in an appropriate manner.

Further criticism of the UNHCR is the organisations' financial dependence, resulting in questions as to where the loyalties and interests of the UNHCR lie:

Questions arise as to whether this financial dependence is being used to pre-empt it from protesting to the disregard of basic protection principles (violation of the principle of non-refoulment, regressive interpretations of the definition of 'refugee', etc.) in many first world countries. (Landgren, 1999 cited in Chimni, 2000: 25)

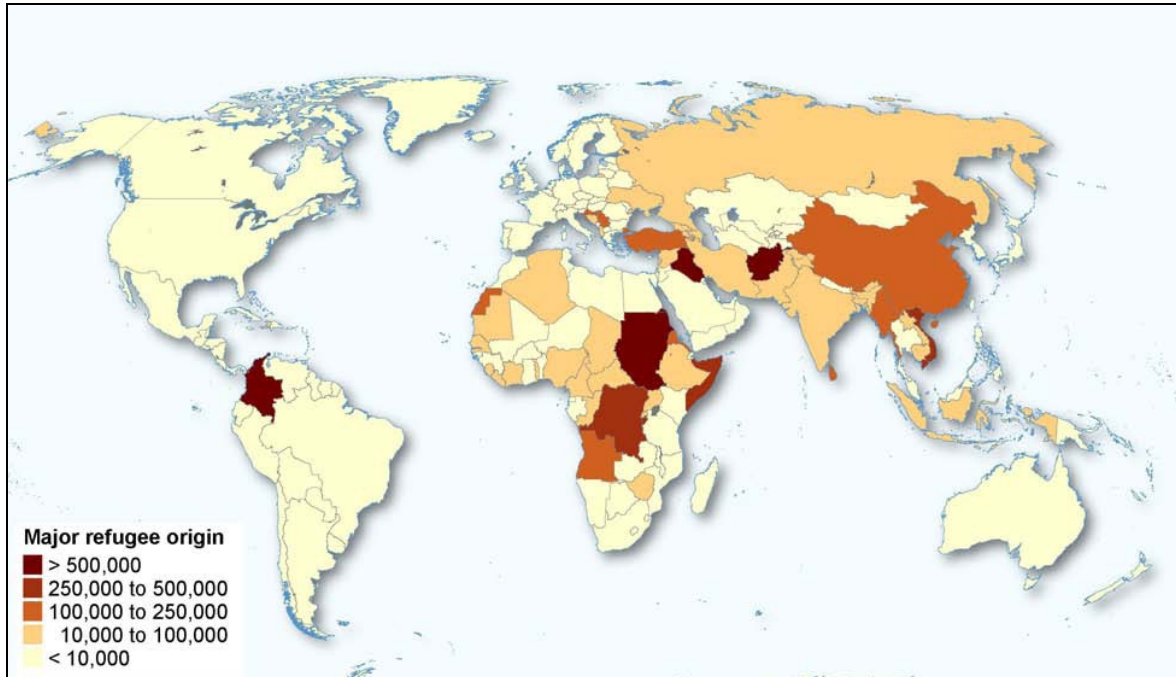
Regardless of the criticisms that the UNHCR has and will continue to receive, it is still the most important body in refugee protection. They provide much needed services in country's that otherwise would not be able to offer protection. Refugees are a permanent feature in the world. There is no solution to halt the phenomenon of refugees entirely, rather there is a call to manage the situation and not solve it (Haddad, 2008).

2.4.2 Global Refugee Trends

Forced displacement has grown in complexity over the years and the world has been witness to millions of displaced people returning home after years of conflict, but at the same time millions are being displaced by recent or current conflict. The net result of these developments is that the number of people uprooted by armed conflict continues to rise annually. The number of refugees and Internally Displaced Persons (IDPs) under the UNHCR's care rose by 2.5 million, reaching an unprecedented 25.1 million by the end of 2007. More specifically, the number of refugees rose from 9.9 to 11.4 million by the end of 2007 (Table 2.1) (UNHCR, 2006b; UNHCR, 2008).

Although reports show that refugee numbers were in decline between 2003 and 2005, the current global conflicts resulted in an increase, with a 1.5 million refugee increase between 2005 and 2007 (UNHCR, 2008). Although there has been a decline in interstate conflict globally, it is internal strife and civil war that are producing masses of forced migrants. Interstate conflict has taken on a new face, that of economic imperatives and commercial greed entangled with social and political complications, all manipulated by political, commercial and military actors from within and outside the state (UNHCR, 2006c).

Figure 2.1: Major Source Countries of Refugees in 2007



(Source: www.unhcr.org/statistics)

Two of the major refugee-producing countries are Iraq and Afghanistan producing nearly half of the world's refugees (Figure 2.1). However, Africa as a region produces nearly a third of all refugees (see Table 2.1). Whilst the number of refugees and IDPs falling under the UNHCR's responsibility is estimated at 25.1 million, available information suggests that a total of 67 million people have been forcibly displaced at the end of 2007. This includes 16 million refugees, of whom 11.4 million fall under the UNHCR's mandate and some 4.6 million Palestinian refugees under the responsibility of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) (UNHCR, 2006c; UNHCR, 2008).

Table 2.1: Global Refugee Population in 2007

UNHCR regions	Refugees	People in refugee-like situations	Total Refugees end-2007
Central Africa and Great Lakes	1 100 100	-	1 100 100
East and Horn of Africa	815 200	-	815 200
Southern Africa	181 200	-	181 200
West Africa	174 700	-	174 700
Total Africa *	2 271 200	-	2 271 200
Americas	499 900	487 600	987 500
Asia and Pacific	2 675 900	1 149 100	3 825 000
Europe	1 580 200	5 100	1 585 300
Middle East and North Africa	2 654 000	67 600	2 721 600
Total	9 681 200	1 709 400	11 390 600
* Excluding North Africa			

(Source: www.unhcr.org/statistics)

The current top ten refugee-producing countries are: Afghanistan, China, Democratic Republic of Congo (DRC), Eritrea, Iran, Iraq, Nigeria, Pakistan, Somalia and Zimbabwe (Refugee Council, 2008). It is evident from Table 2.1 that the major refugee-producing countries are in the developing world. Roughly 80 percent of all refugees find sanctuary in neighbouring states; hence the strain on

these countries further exacerbates the many problems in the developing world (UNHCR, 2008).

2.4.3 Factors Forcing Displacement

Contemporary factors aiding forced displacement are complex and interdependent. The international economic environment is characterised by globalisation and the neo-liberal belief, which are resulting in threats to democracy, increase in equality and basic human rights not being upheld (Chimni, 2000). Many academics assert that it is the changes brought by globalisation and neo-liberal policies that have weakened state capacity and have therefore contributed to growing poverty and inequality, instability and conflict. However, for refugee flows, it is the more visible violent conflict that has forced many people to flee (Newman and van Slem, 2003).

Refugees are the by-products of war, military coups, and massive human rights violations. Every year new accumulations of people are displaced as old problems remain unresolved and new ones emerge (Loescher, 1993). Refugee movements in the developing world are caused by war, conflict, ethnic strife and sharp socioeconomic underdevelopment. Much conflict and political instability has arisen due to deep ethnic division, indebtedness, economic underdevelopment and natural resource disputes (see Figure 2.1).

It is the struggle over the distribution of power and resources coupled with the previously mentioned factors that have been the source of some of the most devastating civil wars and episodes of mass repression during the last fifteen or more (Loeschar, 1993). Hence, it is conflict and widespread human rights abuses that have led to large refugee flows in countries such as the Democratic Republic of Congo, Sudan, China and Afghanistan.

The refugee phenomenon is part of an emerging global crisis of mass migration generated by structural economic, political, and social changes in the world – particularly in large parts of the developing world (Figure 2.1) (Loescher, 1993). Since the mid-1970s refugee flows have been persistent, as seen, for example, in the mass departures from Vietnam, Cambodia and Laos. In Africa, thousands have had to flee from countries such as Uganda, Namibia, Burundi and Rwanda (Castells and Miller, 1993; 1998). Globalisation has increased disparities in income and human security between the North and South. Liberalisation, economic restructuring and structural adjustment programmes have served to compound the emerging global crisis, with two-thirds of the world's refugees in continents that are already struggling (UNHCR, 2006c).

2.4.4 Refugees: Who's Responsibility?

Responsibility is a complex notion with several connotations: responsibility as task and duty; responsibility as accountability and liability; responsibly as virtue in terms of behaving responsibly; and casual responsibility for a certain outcome ... while responsible behaviour for some actors might be

judged in relation to the efficiency with which they undertook their tasks, for others it might be judged according to the overall impact of their work. (Terry, 2002: 18)

The current emphasis on the complexity of the refugee crises has become a convenient way of deflecting responsibility for the negative consequences of humanitarian action from the international aid regime to the local context in which it operates (Terry, 2002). A major challenge is to determine how best one shares responsibilities in order to ease the burden on any one state unable to shoulder it entirely. “There is also a need to put in place burden sharing, not burden shifting, mechanisms which can trigger timely responsibility sharing in any given situation” (Turk and Nicholson, 2003:4). What is evident today is the ‘major powers’ (European Union (EU), United States of America (USA)) prefer to define the problem as humanitarian, thereby “lessening the urgency to act and substituting symbolic action for substantive action” (Stedman and Tanner 2003: xi).

Consequently, the result is that nation states, particularly those of the wealthier Western countries, are calling for ‘efficiency’ to be the driving force in dealing with the refugee phenomenon. ‘Efficiency’, now holds a political role in justifying an allocation of responsibility for refugee protection between the North and South, developed and developing, First and Third World. It is broadly being used to imply that it is legitimate for wealthier states to revert to what has in the past been called ‘the Japanese position’, of primarily making their contribution to the refugee regime at a financial level, while leaving the direct responsibility for

physically hosting refugees to countries nearer the refugees' region of origin (Betts, 2006).

2.4.5 Burden Sharing

When we demand the rights and freedoms we so cherish we should also be aware of our human responsibilities. If we accept that others have an equal right to peace and happiness as ourselves, have we not a responsibility to do what we can to help those in need and at least avoid harming them? Closing our eyes to our neighbour's suffering in order to better enjoy our own freedom and good fortune is a rejection of such responsibilities. We need to develop a concern for the problems of others, whether they be individuals or entire peoples. (The Dalai Lama cited in Ishay, 2004:21)

The language of burden sharing has been transformed into a language of threats to the security of states. Perceived threats such as the increasing demands refugees place on already scarce resources or how the presence of refugees threatens a region's security. The threat perception that currently exists is so often veiled by the language of security; the end result is one where states feel justified to close borders and/or to return refugees to countries of origin in less than ideal circumstances. In the name of security, fundamental principles for the wellbeing of a refugee are being eroded, such as that of *non-refoulement* (Chimni, 2000). Thus primary obligations of states to refugees are seen in negative terms, where the refugee is yet another problem to be dealt with, and not positive terms (Nicholson and Twomey, 1999). For this reason the tension that exists creates a contradiction, between human rights declarations and states' sovereign claims to

control their borders as well as to monitor the quality and quantity of admitees (Benhabib, 2004). Hence, a question which remains is what duties and what rights does a state have towards individuals seeking to enter the land over which it rules? The initial answer has to be that it must deal with them justly: It must give them their due (Dummet, 2001).

2.4.6 Movement of Goods but not People

Today's world is marked by an increase in the mobility of goods, capital and people (especially businesspeople and professionals). Globalisation and international migration go hand in hand. However, for the world's most vulnerable, borders remain tightly shut. Sovereignty of the state reigns and more effort and resources is being allocated to bolt shut once open borders. It is these borders that constitute every nation state, excluding people who have been victims of massive injustice. Yet, for institutions, so often the cause of these injustices, such as the International Monetary Fund (IMF) or World Bank (WB), mobility is greater. A clear path is made for the movement of capital but, not people (Worth, 2006). The world system is being driven by the ideology of neo-liberalism which at its most basic is "devoid of any normative principle of justice and humanity; it is market driven" (Pollis, 2004:343).

In the past decade a growing number of countries have introduced immigration policies that allow for the exclusion of refugees. People who flee from injustices into nation states for refuge are often met with a system that is marked by a

process of filtering, choosing, accepting and exclusion. The fact that there is a or quota raises doubts about justice and ethics. What is evident in the contemporary world is a failure of nations to deal adequately with refugees (Worth, 2006).

2.4.7 Global Compassion Fatigue

The past decade has witnessed a multitude of internal conflicts and new threats which have emerged from a globalised world. At the end of 2007, globally the number of refugees stood at 11.4 million under UNHCR's care, a number that has risen for the past three years (2005 – 2008) (UNHCR, 2008). It is a global phenomenon in which all countries, sending or receiving, play a part. The modern world map is studded with instability, in the form of localised conflict, fractured states and the associated forced migration (Nicholson and Twomey, 1999). It is the upward trend of refugees, of fractured states and localised conflict which has produced a real sense of compassion fatigue on the part of many states. Hence, the language used today speaks of refugees as a 'tide' or 'burden' to be passed on by or, at best, shared between nation states (Nicholson and Twomey, 1999). Although refugees fall under international protection, asylum is inextricably controlled by individual states. More specifically, decision-making in terms of admission/departure and an emphasis on territory and jurisdiction, all are guided by individual states (Nicholson and Twomey, 1999). Today the refugee phenomenon is viewed through political and security lenses rather than individual human rights.

The very institution and notion of seeking asylum is being threatened due to the new attitude whereby “globally there has been a shift from the protection of asylum seekers to the protection from them” (Newman and van Selm, 2003:8). States that once had generous asylum and refugee policies are now contending that the costs outweigh the benefits. Since the September 11, 2001 attacks in New York, USA the migration debate has been dominated by state security concerns, often overshadowing the legitimate protection needs of refugees (UNHCR, 2006c).

These new attitudes where states view refugees and asylum seekers as threats to employment, security, and social cohesion, are reflected in anti-immigration policies. The concerns about security are frequently translated into anxiety over control, entry and sovereignty. Hence, the opportunities and level of assistance afforded to forced immigrants is often a reflection of politics, geo-strategic interests, as well as international donor and media priorities (Loescher, 1993; Newman and van Selm, 2003). Governments have become less tolerant toward refugees and immigrants of any kind. As a consequence, the international community is not meeting its obligations to protect and assist refugees, legally and ethically (Loescher).

The refugee phenomenon is unquestionably about a lack of rights; even when entering a country for refuge the refugee is perceived as a threat where a Nation needs protection from them; the refugee is seen as the ‘other’, a problem hoped

to be solved by someone else (Nicholson and Twomey, 1999; Newman and van Selm, 2003). Even though great progress has been made in developing human rights' policies, state obligations to refugees are often viewed negatively. In developed countries, asylum seekers have increasingly been portrayed in the media and by some politicians and a growing number of community action groups as having potential links to terrorism, eroding socio-cultural cohesion and for undermining the welfare state (Gibney, 2004; Schuster, 2003). Similarly, in the global south, many first countries of asylum hosting vast numbers of refugees have limited capacity, and the insecurity, environmental degradation and resource diversion brought by large influxes often provokes resentment from citizens (Milner, 2000).

A disturbing trend is developing whereby developed nations want developing nations to carry the heaviest burden in protecting refugees. This is done by ensuring that refugees stay close to their home country as this will allow for an 'easy' transition home. This has seen the tightening of policies and a conscious effort to make it more difficult for refugees to be accepted and gain protection from many developed countries. This has included imposing new stringent controls: visa requirements, detention of asylum seekers in airports, sanctions over airlines/transport that carries asylum seekers, and an ever narrowing interpretation of the refugee convention (Loescher, 1993; Newman and van Selm, 2003). Thus, it is the countries that have the least resources that largely carry the refugee burden (UNHCR, 2006c).

2.5 Refugees in Africa

No doubt for many casual observers, refugeehood and African-ness are entwined through the pictures carried in the international media, linking mute, ragged, dark-skinned people with whatever the latest 'crisis', distilling an image of Africa that unfortunately is as widely recognised as it is simplified and biased. (Tuepker, 2002:410)

A refugee is often a blameless innocent caught up in violence. A person whose hope lies in the welcoming arms of strangers, forced to leave mostly due to the by-products of wars, military coups, and massive human rights violations. Every year, new accumulations of people are displaced as old problems remain unresolved and new ones emerge. Much of Africa has undergone traumatic political evolution that include military regimes and dictatorships which generated civil wars of unprecedented proportions, triggering forced migration in the form of IDPs, refugees and asylum seekers (Oucho, 2006). According to Cibangu (2006: 148) "there is hardly a single sub-Saharan country that does not play host to some refugees from another African country".

Since the late 1950s conflict has brewed in African countries such as Burundi, DRC, and Rwanda (see Table 2.2) (Cibangu, 2006). Anti-colonial insurgency and post-independence civil strife and warfare have generated vast numbers of refugees. Conflicts have been the cause for years of displacement. Conflict between and within countries, over politics and ethnic affiliation resulted in an increased abuse of human rights and mutilation of the worst kind, all of which have resulted in streams of migrants forced to leave their homes. No less than

28 sub-Saharan African States have been at war since 1980. These conflicts have forced many out of their homes and have been the cause for millions to be displaced (Hyndman, 2000).

Conflict between tribes is the most 'known' cause of conflict in Africa, leading to civil wars and genocides (e.g., the 30-year civil war in Ethiopia, the ethnic hatred between the Tutsis and the Hutus in Rwanda and Burundi, the on-going civil war in Sudan and Somalia) (Awuku, 2005). Wars in Angola, for resources such as diamonds and oil, produced about three million refugees over the years. According to the Human Rights Watch (HRW) (HRW, 1999) at least half-a-million people were murdered in the Rwandan genocide of 1994. Disintegrating nations, such as Somalia, are examples of the chaotic conditions and widespread displacement that can easily arise from ethnic, tribal and religious conflicts (Loescher, 1993; Stedman and Tanner, 2003).

Africa, grounded in poverty, unstable politics and ethno-religious conflicts has a continual flow of migrants. With one-quarter of the world's land mass and a tenth of its population, Africa is the region most affected by refugees. Almost every African country has been a part of conflict at one time or another in the post-colonial period. Subsequently, Africa has been characterised as a continent in which almost every country has either expelled or provided a destination for refugees (see Table 2.2) (Bailey, 2004), a continent that is home to a disproportionate amount of refugees (Hollenbach, 2008).

Table 2.2: Conflicts Across Africa, 1957-2008

Year	Nature of unrest
1957	Ivory coast native diamond exploiters chased out by colonialists
1958	Anti-nationalist propaganda launched by the French to encourage exile in neighbouring countries
1960	Revolt broke out in South Sudan
1960	Former Zaire, became a battlefield
1975	war breaks out between Kingdom of Morocco and those of the Polisaro front
1975	Mozambique Civil War
1977	War between Somalia and Ethiopia
1983	War in Chad
Early 1980	Ugandan civil war
1993	War in Burundi
1994	Rwandan Genocide
1998	DRC civil war revived
1998	Eritrean-Ethiopia war
2000	Algerian war, Somalia civil war
2003	War in Darfur
2004	Central African Republic bush war
2005	Civil war in Chad
2005	Zimbabwe, 'drive out trash'
2007	Kenyan crisis
2008	DRC crisis

(Source: Cimande, 1986; www.warscholar.com)²

² Note: this is a rough timeline as not all conflicts are represented.

Even though many conflicts in Africa are ending, the dynamics of forced displacement remain complicated. War and human rights abuse uproots hundreds of thousands of people, with people moving within or between the poorest and least stable countries in the world (UNHCR, 2006c). Refugees in Africa “often find themselves in states that lack the capacity, willingness or resources to provide for them” (UNHCR, 2006c:9). African host governments largely lack the necessary resources to aid refugees; hence hosts usually opt for maintaining camps. These camps have been described as being “inefficient and miserable” (Jamal, 2003:4).

Africa, unique in its causes, facing a massive crisis illuminates a major weakness within the international refugee protection regime – a failure of implementation, with a lack of a meaningful system of supervision (Zard, 2003). On paper, African refugees benefit from one of the world’s most progressive protection regimes. However, the reality is that “they face endless human rights hurdles involving forced return, discrimination, arbitrary arrest and detention, restricted freedom of movement and expression, and violations of social and economic rights” (Zard, 2003: 33). The South African experience has been no different.

2.6 Refugees in South Africa

Post-apartheid South Africa has become a major destination for people across Africa and beyond. Due to ongoing political and economic crisis, continued insecurity and conflict across the continent, South Africa has received a steady

flow of asylum seekers post-1994 (CoRMSA, 2007; Landau, 2004). Unemployment may be around 30 percent in South Africa, but wealth, peace and economic growth make it a source of hope for asylum seekers and migrants alike (UNHCR, 2006). South Africa received more asylum seekers in 2007 than any other country, with 53 400 new claims (UNHCR, 2007a).

South African cities like Johannesburg, Cape Town and Durban host thousands of refugees and asylum seekers. They are not housed in tents as in the rest of Africa, but as urban refugees integrated into society (Bailey, 2004). However, this does not occur without problems. Due to “limited or non-existent assistance, all of these refugees are left to their own resources in order to meet the basic needs of food and shelter and eventually move beyond a survivalist existence” (Bailey, 2004: 3).

With a refugee-receiving trend that is relatively new in South Africa, the country faces many problems. The response of the country is not only a practical issue, but also “reveals much about how South Africans understand themselves and their relations to a global community” (Landau, 2004:10). Sadly, assumptions about migrants’ effects on the country’s economy, society, and politics have dominated the response of government and South Africa as a whole, leading to various actions that in effect exacerbate the problem and worsen the quality of life of forced migrants (Crush, 2000; Peberdy, 2001; Landau, 2004).

The country is marked by a serious backlog in processing asylum applications; therefore the practical consequences to those awaiting applications can be severe (UNHCR, 2006). Not only is the registration process weak and ineffective, but there is also administrative incapacity and many irregularities within the Department of Home Affairs (DHA) (the government agency responsible for making status determination). The DHA is under enormous pressure from a continuing increase in new asylum applications (Landau, 2004).

The Refugees Act, No. 130 of 1998, which came into force in 2000, was South Africa's first comprehensive legal framework for refugees and asylum seekers. On paper, the Refugees Act and the South African Constitution provide comprehensive protections for the rights of those fleeing persecution, including the rights to fair and efficient status determination procedures, registration and documentation, to freedom from arbitrary detention and threat of deportation, and to services such as health care, shelter and education. However, these legal guarantees have not yet been completely put into practice by those South African institutions responsible for the protection and promotion of these rights. Although South Africa now has a good formal legal regime in place for the protection of refugees and asylum seekers, serious flaws remain in its implementation. Refugees and asylum seekers continue to experience problems in realising their rights and gaining access to services (HRW, 2005).

2.6.1 History of Policy and Legislation

Peberdy (2001) has emphasised that South Africa is a country marked by exclusionary migration policies (dating back to the 1913 Immigrations Regulating Act which was intended to stem the flow of Indian migrants). In 1937, the Aliens Control Act was passed and it is this Act which has formed the basis of all subsequent immigration legislation up to 1998 (Smith, 2003). Since then a number of Acts has followed: the Aliens Registration Act 1939, the Aliens Registration Amendment Act 1949, Aliens Control Act of 1963, the Border Control Act of 1967 - all of which reflected the interests of the apartheid state. In making any decision relating to migrants, “authorities had to satisfy themselves that the immigrant did not threaten the language, culture or religion of any White ethnic group ... black immigration and refugees were discouraged” (Smith, 2003:3). Such policies were still enforced as recently as 1991, when ‘Apartheid’s last Act’: the Aliens Control Act (96 of 1991) was passed, an act that was xenophobic and reactionary (de la Hunt, 1998).

However, much has changed in the post-Apartheid era. Once a refugee producing country, South Africa now plays host to increasing numbers of forcibly displaced people(s). Late in the year 1994, South Africa became signatory to the OAU convention, and in early 1996 to the 1951 UN Convention as well as the 1967 Protocol. Post-1994 saw South Africa becoming a member of the community of Nations (committing itself to International Human Rights Conventions) and with this new membership came new responsibilities and

duties hence the adoption of new laws and legislation, and the demise of others (Table 2.3) (de la Hunt, 1998; Crush and Williams, 2001; Smith, 2003; DHA, 2006; CRMSA, 2007).

Until 2000 the law governing refugees was dominated by the Aliens Control Act of 1991. There was a need for a new refugee law. Therefore, in order to rectify it, task teams were put together in order to draft new legislation, and this was no easy task: as many did not agree and consensus was difficult to reach. Nonetheless, in 1998 a new bill, Act No. 130 of 1998, the Refugees Act, was approved (de la Hunt, 1998; Smith, 2003). This Refugee Act is still currently the law governing refugee issues in South Africa.

Table 2.3: A Timeline of Events showing the Move from Exclusionary to Inclusive Policies

Year	Acts/Policies
1991	Government participates with UNHCR regarding repatriation of exiles from Apartheid
1993	Basic agreement with UNHCR, first office is based and government agree to start administrative procedures for determination of refugee status
1995	South Africa ratifies 1969 OAU convention Governing Specific aspects of Refugee problems in Africa
1996	South Africa ratifies 1951 UN Convention and the 1969 protocol relating to the status of refugees
1997	Refugee protection is seen separate from immigration concerns, leads to a draft green paper on international migration
1998	Draft white paper is published, includes a draft refugee bill
1998	Refugee Act (Act No. 130 of 1998) is adopted by parliament
2000	Refugees Act and refugee regulations

(Source: HRC, 2001: 13-14)

The person(s) responsible for the administration of the Refugee Act No. 130 of 1998 is the Minister of Home Affairs and the relating offices (Government Gazette, 1998). The final determination of refugees is subject to a multitude of legislation such as: The South African Constitution, Act No. 108 of 1996; the

Immigration Act of 2002 (amended in 2004); the signing of the 1951 and 1969 Conventions (HRW, 2005). Along with the Refugee Act No. 130 of 1998, Refugee Reception Offices (RRO) were established in the five major cities: Durban, Cape Town, Johannesburg, Port Elizabeth and Pretoria. These offices were responsible for issuing temporary permits to asylum seekers and for conducting refugee status determination interviews. It is within the 1998 Refugee Act that the asylum seekers procedure is outlined.

2.6.2 Status Determination Procedure

The following institutional structures deal with refugee determination:

- **Refugee Reception Office (RRO)**, of which there are five. Each reception office has to have at least one reception officer (the person who carries out the first interview) and a refugee Status Determination Officer (SDO), who decides whether the applicant will be granted status. All hearing, renewals and interviews take place at the RRO.
- **Standing Committee for Refugee Affairs**, which will consist of at least one legally qualified person, which decided the rules of the application process, and reviews the SDOs decision.
- **Refugee Appeals Board**, which decides on appeals against a decision to reject an application. It has a chairperson and two other members, of which one has to be legally qualified, based in Pretoria (HRC, 2001).

Once the intention to seek asylum has been submitted upon arrival in South Africa, the asylum seeker is issued with a temporary permit valid for 14 days (Section 41 permit). Under the regulations of the Refugee Act, asylum seekers must present themselves in person to one of the five RROs “without delay”. Within these 14 days the asylum seeker needs to approach any of the five reception offices where a Refugee Reception Officer will conduct the first eligibility interview (to establish identity and reasons for applying). The applicant fills an eligibility determination form (form B1-1590). The officer then issues a temporary asylum seeker permit and sets a date for a full refugee status determination hearing within 30 days. A refugee status determination officer then interviews the applicant to decide whether he or she should be granted status. At this point another interview is set up within 15 days to inform the applicant about the outcome. During interviews an asylum seeker is entitled to have access to an interpreter to assist in translation. The DHA is expected to provide a competent interpreter where necessary. When the DHA is unable to provide an interpreter, the asylum seeker has to provide his/her own. They are given seven days notice to do so (HRC, 2001). If status is granted, then the DHA issues a permit and subsequently an identity document to the applicant.

If the application is denied the asylum seeker is entitled to appeal to the Refugee Appeals Board. The applicant has 30 days to lodge an appeal which has to be done in person (HRC, 2001; HRW, 2005). The appeal must be adjudicated within 90 days. The application procedure and appeal should be dealt within 180 days.

Whilst applications are pending the incumbents are not allowed to work or study. If the application is rejected, then asylum seekers can take it for review to the High Court in Pretoria (HRC, 2001).

2.6.3 The Rights of a Refugee in South Africa

South African law assigns asylum seekers and refugees special protection and certain rights (CoRMSA, 2007), (see Table 2.4 and Table 2.5). The rights assigned to refugees are all rights enshrined in the South African Constitution' other than the right to vote. These rights are necessary to ensure a life of dignity (CoRMSA, 2007; Crush and Williams, 2001; National Consortium for Refugee Affairs (NCRA), 2006).

The laws and conventions pertaining to the rights of refugees and asylum seekers are "intended to guarantee physical security, access to critical social services and access to courts and due process of the law" (CoRMSA, 2007: 14). The Refugees Act defines the legal standard for refugee status, sets out the rights (see Tables 2.4 and 2.5) and obligations of refugees and asylum seekers and establishes South Africa's asylum procedure (HRW, 2005).

Table 2.4: Asylum Seekers Rights in South Africa

<ul style="list-style-type: none">• Asylum Seekers in South Africa are protected by the Bill of Rights enshrined in the South African Constitution.• Asylum Seekers have the right to remain in South Africa, subject to the provisions of the <i>Refugees Act</i>. This means that they have the right not to be deported from South Africa before their asylum application is finalized.• Asylum Seekers are entitled to a fair process in the adjudication of their asylum application.• Asylum Seekers, while awaiting the determination of their asylum application, may study and take up employment in South Africa.• Asylum Seekers have the right to basic health care and emergency health care.• Asylum Seekers have the right to primary education. Asylum seeker children may study at South African public schools and asylum seekers may qualify for school fees exemptions for their children.• Asylum Seekers have the right to access secondary and tertiary education.• Asylum Seekers may not apply for refugee identity books or travel documents. <p>In return, asylum seekers must respect the rights of others and follow the laws and regulations of South Africa.</p>
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(Source: Refugee rights info booklet, UCT)

Table 2.5: Refugee Rights in South Africa

<ul style="list-style-type: none">• The right to a formal recognition of refugee status in the prescribed form (Form BI-1693 i.e. Section 24 Permit).• Full legal protection, which includes the rights set out in <i>Chapter 2 (Bill of Rights)</i> of the <i>South African Constitution</i> and the right to remain in South Africa, subject to the provisions of the <i>Refugees Act</i>.• The right to acquire property, and enter into leases and other contracts.• The right to take up employment or be self-employed in the profession of their choice.• The right to primary education. Refugee children may study at South African public schools and refugee parents may qualify for school fees exemptions for their children.• The right to access secondary and tertiary education.• The right to have access to primary and emergency health care and referrals for further medical treatment.• The right to a refugee identity document, as referred to in section 30 of the <i>Refugees Act</i>.• The right to a travel document, as referred to in section 31 of the <i>Refugees Act</i>.• The right to apply for permanent residence, after five years of continuous residence in South Africa from the date on which he or she was granted asylum, if the Standing Committee certifies that he or she will remain a refugee indefinitely. <p>In return, refugees must respect the rights of others and follow the laws and regulations of South Africa.</p>
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(Source: Refugee rights information booklet, UCT³)

³ Refugee Rights Information Booklet: Refugee Rights Project UCT Law Clinic.

These rights have been guaranteed in law. However, when accessing these rights in reality they are almost impossible to meet, mostly due to the incapacity of institutions both in terms of human and financial resources (NCRA, 2006).

2.6.4 The Urban Refugee

South Africa has created a refugee system whereby all refugees are urban refugees and where local integration is deemed the most appropriate temporary assistance strategy (Machingambi, 2007 personal communication⁴). Unlike elsewhere in Africa, refugees are not accommodated in camps or dependent on local government and relief agencies for material assistance. Rather, urban refugees in South Africa are expected to fully integrate themselves into society and are to be self-sufficient. The South African government offers no special assistance or privileges due to lack of financial capacity (and possibly a lack of political will). In order to create an enabling environment, refugees are granted nearly all rights enshrined in the Constitution. This was to be achieved by legislative, regulatory and administrative measures, such as the issuing of identity cards and travel documents, the granting of the right to work and study, and the freedom of movement. Although the permit entitles applicants to work within the country, refugees are hardly accepted in the formal economy labour market by private employers or government, making integration complicated (Landau, 2004b).

⁴ Nyari Machingambi from LHR, interview 14 September 2007

2.6.5 Contemporary Status Quo

The number of asylum seekers and refugees has increased over the last five years in South Africa (Table 2.6). Between 2000 and 2006, 30 200 people were granted asylum out of approximately 200 000 applications (CoRMSA, 2006). Since 2000 the number of asylum seekers in South Africa has steadily increased, from 30 201 in 2000 to 169 809 in 2005 (Table 2.6). Although asylum seekers from 65 different countries applied for recognition in 2006, 87 percent of them came from 10 countries which included the DRC, Zimbabwe, Sudan and Bangladesh. The numbers on record do not always add up to the numbers in reality as not all asylum seekers have been accounted for by the DHA. This is due to the inability of the DHA to record and issue all those who queued with the Section 22 Temporary Permit that is given to asylum seekers to stay in South Africa while their applications are heard (SAMP, 2006).

Table 2.6: Breakdown of the number of Asylum Seekers and Refugees in South Africa

	2000	2001	2002	2003	2004	2005
Refugees	15 063	18 605	23 344	26 558	27 683	29 714
Asylum Seekers	15 138	11 417	52 451	84 085	115 224	140 095
Total	30 201	30 022	75 795	110 643	142 907	169 809

(Source: NCRA, 2006)

2.6.5.1 Lack of Resources

Legislation pertaining to refugees and asylum seekers is progressive in theory; sadly, theory does not always meet reality. The country's legislative framework and moral commitments are not mirrored or supported in the human and financial resources offered to asylum seekers and refugees; the lack of resources is often seen as a lack of political will (CoRMSA, 2007). Even though refugees and asylum seekers are entitled to many rights they face many hardships in trying to access them. Current trends in South Africa show that there is an increase in the number of displaced people seeking refuge in South Africa. This has in turn increased the demands on the capacity of the state and its resources. The effect has had numerous impacts:

- i A number of applicants are 'slipping' through the legal process;
- ii. Some are being refused status despite valid claims;
- iii. The inability of day-to-day implementation is having disastrous effects on the livelihoods of refugees (DHA, 2006; NCRA, 2006).

There have been calls for an improvement in the efficiency of the DHA management of the asylum determination procedure, which has so far led to incredibly long delays, and a substantial backlog in applications. There are not enough resources (especially staff) to process the steadily increasing number of applicants. Therefore, the standards of administrative justice are never reached (Handmaker, 2001).

Despite efforts to curb this backlog via *Operation Backlog*, the number seems to be increasing at a faster rate than applications are being processed (Landau, 2006). Due to under capacity and poor administration of the 53 361 new applications in 2006, roughly only 5000 were processed (CoRMSA, 2007). The most detrimental to a refugee's livelihood and to their well being is inefficient documentation. The documenting process which is stipulated as three months is met with long delays due to lack of resources. The inefficiency of the status determination procedures and the documentation process disintegrates any ideal of an 'enabling environment', as these delays inhibit asylum seekers opportunities of employment. Poor planning and inadequate preparation for the post implementation of such progressive legislation is seen to be largely responsible for the backlog of applications, with too few trained officials being hired from the start (Groot, 2004).

2.6.5.2 Xenophobia

Intolerance manifests itself everywhere, in any country, with different faces. But the ugly tenet underlying it – that all human beings don't have the same value, and that human dignity doesn't need to be respected-that is a universal human phenomenon. We know the kind of answer all too often given to children who ask the questions 'Why war? Why hurt? Why death?' it is: it's the fault of the Serbs, the Albanians, the Hutus, the Tutsis, the Israelis, the Palestinians, the same answer that children have received down the ages. It is always the fault of 'Others'. (Swedish Prime Minister cited in Sereny, 2003:241)

Post-Apartheid South Africa has seen significant changes: A rights-based constitution and democracy are two of the major transformations which have

taken place. However, an unforeseen outcome has emerged in the new South Africa, the intensification of xenophobia (Crush and Williams, 1999:9). Xenophobia, is an “irrational dislike or fear of foreigners based on unfounded myths and stereotypes” (NCRA, 2006:10), or an “anti-foreigner hostility” (Jacobsen, 2005:45). It is threatening the reality of a ‘new’ society founded on human rights, with migrants commonly referred to as *ama kwerekwere* (disparaging word for African immigrants) (Maharaj, 2002).

Immigration is often associated with economic restructuring and social change. People whose conditions of life are already changing in an unpredictable way often see the newcomers as the cause of insecurity. Migrants and minorities are seen as a danger to living standards, life styles and social cohesion (Castells and miller, 1993; 1998). Xenophobia develops due to unmet expectations of poverty – stricken masses. Thus the foreigner becomes the enemy and the scapegoat for lack of resources and for the inability of government to deliver. The blame has been shifted from the apartheid government to the African foreigner (Maharaj, 2002).

Xenophobia is rife across South Africa (seen in the culmination of event early 2008). Similar attitudes are felt by “the poor and the rich, the employed and the unemployed, the male and the female, the black and the white, the conservative and the radical” (Pendleton, 2004: 2). Immigrants are generally viewed as an economic threat, based on stereo-typical claims and half truths. In general the

public believe that South Africa is 'under siege', that the increasing unemployment levels and declining economy is all because of the immigrant, the black African immigrant (Maharaj, 2002). There is a widespread belief that these "illegals" supposedly cause: Crime and run arms and drug deals; overuse the already overstretched social, medical and health services, deprive South Africa's own citizens; take jobs and are responsible for unemployment (Bell, 2000).

In popular and official (mis)perception, little distinction is made between various categories of migrants. An illegal immigrant and undocumented immigrant are one-and-the-same. No attempt is made to differentiate between genuine refugees and economic refugees (Crush and Williams, 2001; CoRMSA, 2008). Many refugees become scapegoats for the countries ills: High levels of unemployment, elevated crime levels, poor service delivery and widespread insecurity have led to the harassment of migrants. Yet, the most disturbing trend that xenophobia shows is the threat that such attitudes have on stifling the emerging culture of human rights which has begun to overcome the abuses endured during apartheid (Crush, 2000; Danso and McDonald, 2000).

South Africa borne out of a legacy of racism is currently leaving a legacy of xenophobia and discrimination based not on skin colour but tribe, language and shape of one's nose (Handmaker and Parsley, 2001). Even though South Africa is praised for one of the "most progressive constitutions in the world" (Crush, 2001:103) and prides itself on its Bill of Rights (which theoretically guarantees a

host of rights to all who are living in South Africa), the escalating reports of citizen intolerance of non citizens threatens the foundations upon which South Africa's democracy is built (Crush, 2000).

Refugees in South Africa are faced with local perceptions that are often based on ignorance and irrational fear of what they do not know or understand; hence refugees are met with prejudices which can result in injustices (Bell, 2000). Refugees are increasingly at risk of xenophobic attacks, even though they try to remain a hidden population they are easily seen as the 'other' (Handmaker, 2001).

2.7. Conclusion

A refugee cannot be looked at only through a political lens or an economic lens, but requires all fields of study to be incorporated if one is to effectively and fairly deal with the refugee phenomenon. A refugee is not merely a statistic, rather he or she is a product of harsh circumstances, which need to be better understood. A refugee is not 'something' that needs to be dealt with, nor can it be the sole problem of an already struggling Third World. As the world is increasingly becoming one, so to is there a need for the world to act in unity concerning refugees.

Refugees face many challenges across the globe, with closing borders and burden shifting exacerbating many problems facing countries of asylum and the

refugee. Refugees in South Africa face increasing intolerance, an inefficient DHA, incredibly long delays in receiving the necessary documentation, and a general lack of access to resources such as health and education. Hence, the life of a refugee in South Africa shows that the human rights based constitution and laws governing South Africa remain rhetoric for one of its most vulnerable groups.

Chapter Three

Methodology

3.1 Introduction

For any research project to be ethical, it is of utmost importance that methodologies are sound, that the strengths and limits of approaches used in generating both data and knowledge are recognised; good research requires that researchers reveal and explain their methods. A significant goal of most research projects is to make an impact with outcomes and recommendations that can be used effectively. Therefore, it is important not to limit the capacity and impact that the research may possibly have by weakening it with a research design that is poorly constructed or inadequately explained (Jacobsen and Landau, 2003).

Research methodology is concerned with planning, structuring and executing research in such a manner that it is considered to be scientifically sound (Jacobsen and Landau, 2003). This chapter explains the aim and objectives of the study, and the critical questions to be answered. The methodology adopted in the study is also discussed.

3.2 Aim and Objectives

The aim of the study is to understand life histories and experiences of refugees in Pietermaritzburg, and to determine the level of assistance and support available for refugees.

More specifically, the objectives of the study are to:

- i) Record the life histories of refugees in Pietermaritzburg.
- ii) Analyse the experiences of refugees since entering South Africa.
- iii) Examine the role of the Church in assisting refugees.
- iv) Critically review the legal policy processes to determine refugee status.
- v) Determine whether systems, legal and social, for refugees in Pietermaritzburg are in place for effective assistance.

Furthermore, critical questions to be considered in this thesis are:

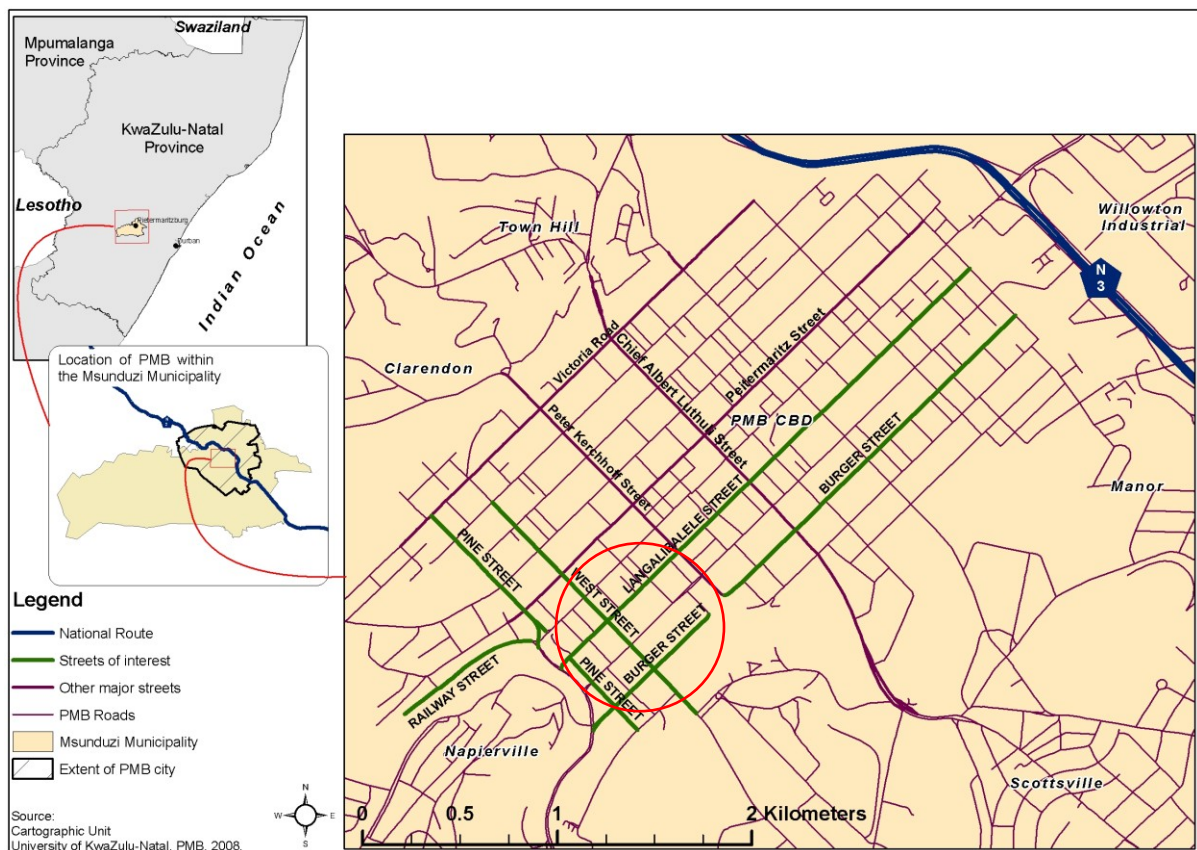
- i) Who are the refugees?
- ii) Why did the refugees come to Pietermaritzburg?
- iii) What are the needs of refugees in Pietermaritzburg?
- iv) What are the livelihood/survival strategies of refugees?
- v) What forms of assistance are available for refugees in Pietermaritzburg, and which organisations provide such support?
- vi) What forms of assistance are required by the refugees?
- vii) What hardships and challenges do refugees face on a daily basis?
- viii) How can the refugee situation in Pietermaritzburg in particular, and tendencies in South Africa in general, be improved?

3.3 Study Area

The study was conducted in Pietermaritzburg, which is situated in the Msunduzi Municipality and is the capital city of the KwaZulu-Natal Province.

Pietermaritzburg is home to over 600 000 people with roughly two-thirds of this population living in townships or rural areas (www.msunduzi.gov.za). Current figures indicate that Pietermaritzburg is in need of roughly R500 million to deliver necessary services and maintain infrastructure. Pietermaritzburgs vision is: a safe, healthy and sustainable environment for all (www.msunduzi.gov.za).

Figure 3.1: Pietermaritzburg Town Centre



(Source: Geography Cartographic Unit, UKZN Pietermaritzburg)

Refugees are found in part of the 'old Pietermaritzburg'. This area has been circled in red and the roads, have been highlighted in green (Figure 3.1).

3.4 Methods

Methods, tools and procedures constitute the research design of a particular study. It is this design that is essential for good-quality research. One's research design is often more of a process in itself than an event, as was the case in this study (Hoggart *et al.*, 2002).

This thesis utilised both qualitative and quantitative research methods in order to provide a comprehensive understanding of the complexity of the refugee phenomenon in Pietermaritzburg, KwaZulu-Natal and therefore similar tendencies in South Africa. The thesis relied more on the use of qualitative research as it "is concerned with elucidating human environments and human experiences within a variety of conceptual frameworks" , and is seen to be more "concerned either with social structures or with individual experiences" (Winchester, 2005:3-4). Human geographers conduct research to better explain individual experiences, environments and social processes. Hence, human geographers rely increasingly on qualitative approaches whereby one can elucidate human processes. This cannot be done with the use of one single method of enquiry or one conceptual approach, rather a range of methods and approaches are used in order to provide the most accurate and holistic approach (Winchester, 2005).

3.4.1 Qualitative Inquiry

i) Sampling method

When sampling 'hidden' populations like refugees, traditional methods are inappropriate as one cannot rely on household surveys, for example. Methods which dominate the study of hidden populations are: snowball and other forms of chain referral sampling, key informant sampling and targeted sampling (Heckathorn, 1997). The method that is used in this case study is snowballing/chain sampling. The 'hidden' population of urban refugees makes it extremely difficult, as an outsider, to identify refugees hence; the researcher depended on "snowballing" as it identified cases of interest from people who knew other people with similar experiences (Bradshaw and Startford, 2005). Within this method ideally the first contact is randomly chosen, although in reality ease of access usually determines the initial sample. The first sample then provides the researcher with other names of participants who fulfil the research criteria (Heckathorn, 1997).

This method has been heavily critiqued, for example Erickson (1979) cited in Heckathorn (1997) argues that due to the fact that the initial sample/contact usually cannot be drawn randomly, the sample is biased towards those that are cooperative; they are seen to lack the claim to produce unbiased results; and will only 'engage' those who are similar to that of the initial contact. Snowball sampling both excludes and includes individuals (Browne, 2005). Samples that are produced are not even close to random samples, as people recruit their

friends who are often similar to them. Also the choice of the first person is often biased, as what led the researcher to choose these people needs to be questioned as often it will be strongly biased to personal relationships (Salganik and Heckathorn, 2004).

Regarding the sample size, the simple advice of Patton (1990, cited in Bradshaw and Stratford 2005:73, emphasis original) is relevant:

There are no rules for sample size in qualitative inquiry. Sample size depends on what you want to know, the purpose of inquiry, what's at stake, what will be useful, what will have credibility. And what can be done with available data, time and resources...the validity, meaningfulness, and insights generated from qualitative inquiry have more to do with ... information-richness ... and the observational/analytical capacities of the researcher than with the sample size.

Thus, the sample size was not predetermined; rather, factors such as ease of access, ability to network are fundamental.

ii) *Interviews with Refugees*

A primary aim of the study was to gain an in-depth understanding into complex situations that “usually requires semi-structured, in-depth interviewing or observational methods that, though time consuming, often result in a deeper more detailed appreciation of the complicated issues involved” (Bradshaw and Stratford, 2005:72). Therefore, interviews were face-to-face in which the researcher attempted to obtain information, opinions and perceptions from

another person(s) (Dunn, 2005). Interviews are an excellent method of gaining access to information about events, opinions, and experiences. Questions posed in interviews allow for open-ended responses as opposed to a simple yes or no. There are various forms of interviewing. Factors such as the nature of the group and the desired outcome determine the interview form.

Interviews with refugees were unstructured and took the form of life histories and narratives. This approach seeks personal accounts of significant events and perceptions determined by the informants, the interviewees, in their own words (Marshall and Rossman, 1995). The life histories approach is one type of narrative interview, with the intention to learn about the individuals experience, how he or she understands and perceives the world (Payne and Payne, 2004). Life histories are records of personal experiences, from the past as well as present social events (Payne and Payne, 2004). Hence, this was most appropriate to reconstruct the life histories of refugees. Another reason for the choice of the approach is that it provides not only their (refugees) present perspective but allows one to give a historical perspective, therefore enabling the researcher to “see how experiences and events come together with reference to some particular issue” (Payne and Payne, 2004:24). The nature of the research means that the researcher/interviewer has to inquire into people’s individual lives. This method presupposes that people live ‘storied lives’ and looks to collect information to illustrate those lives (Marshall and Rossman, 1995). It is important to note that a narrative approach requires a great deal of sensitivity, a caring

relationship (one which is established over time), and trust. This was because as people tell their stories, this will reveal experiences and details which are personal and involve feelings of love, exploitation, hurt, violence, abandonment and much more (Marshall and Rossman).

A unique part of the research was the way in which the stories were told and recorded. This was because the refugees themselves were the ones who did the writing of their stories (refer to Appendix 1 for guidelines). There are some limitations to this approach such as language barriers. Also, only those that were willing to do so wrote their stories, thereby possibly creating a biased sample (e.g., most the refugees who participated were Christians). However, the stories provided invaluable insights in understanding the experiences of the refugees. When writing their stories many asked for guidelines, and a list was drawn up and given to each participant. It was emphasised to the participants that the guidelines were flexible and that they were at liberty to include or exclude information.

Another criticism was that the narrative/life history method focuses on the individual rather than social context. This approach seeks to understand challenges facing groups, communities, and contexts through the individual's lived experience. Furthermore,

... All data dependent on the participant's accounts, narratives may suffer from selective recall. Its strength is the elicitation of voice, with a lessening of the researcher's framework and interpretation ... important events and

experiences in a persons life are told in ways that capture the persons own feelings, views, and perspectives. (Marshall and Rossman. 1995:88)

And it is this, *their* (refugees) stories that was the focus of this research.

iii) *Interviews with key people and organisations*

The main reason for using key informants is due to their knowledge of a particular situation and therefore it is quick and easy to extract the required information pertaining to the research at hand (Payne and Payne, 2004). Key informants are people with his or her expertise lying in the subject of research and are able to direct the researcher to other key informants if need be (Payne and Payne).

The interviews were semi-structured. Hence, there were no set questions as the researcher wanted to allow for flexibility. The nature of the questions was open-ended, opposed to the yes or no format. The interviews were useful in that they assisted the networking process by connecting the researcher to useful contacts and links. Interviews were conducted with the following:

1. Department of Home Affairs: Refugee Reception Office (RRO), Durban,
2. Refugee Pastoral Care (RPC), Durban,
3. UKZN, Richard Ballard: Development Studies,
4. Kwa-Zulu Natal Christian Council (KZNCC),
5. Lawyers for Human Rights (LHR), Durban,

6. UNHCR, Pretoria (telephonic interview), and
7. Pietermaritzburg City Council

Advantages of interview studies include flexibility; probing for more specific answers; questions can be rephrased when the response indicates the respondent misunderstood; and the researcher has control over the order of questions as well as the environment. However, there are also disadvantages such as cost, time and interview bias. This can occur from a simple misunderstanding of the respondent's answer, or simply disregarding information that does not suit the researcher's desired outcomes (Bailey, 1987; Chawla, 2002).

iv) *Focus Group*

The focus group is a meeting of four to eight individuals brought together to discuss particular topics chosen by the researcher. The use of focus groups is beneficial as it places the individual into a group context, where conversations can develop (Bedford and Burgess, 2001).

The focus group comprised of four to six refugees who provided much insight into the life experiences and challenges faced by refugees.

vi) *Recording of data*

All data was recorded via note taking (bar the personal life history accounts). There were several reasons for this: Firstly, many of the people interviewed were not fluent in English therefore heavy accents made it difficult to understand if a tape recorder was used. Secondly, given their vulnerability, respondents were suspicious of being 'captured' on a tape recorder. Therefore, all life stories, written by the refugee, were reworded if necessary for clarity purposes as English is often a fourth or fifth language for many refugees.

3.4.2 Quantitative Inquiry

i) *Available Data Research*

Available data research occurs when the researcher uses statistical and other data collected by another party, which was not fully analysed and exploited by the original data collectors due to differing fields of study (Veal, 1997). The use of available data tends to be undertaken extensively by social scientists. Due to costs and time required to conduct original field studies, many scientists view the use of available data research as a means to economise on such costs, time and person power (Hall, 1994). The use of available data such as statistical data from the DHA (Durban) and the UNHCR comprised the quantitative component of the research.

3.4.3. Secondary Data Sources

In order to determine questions that are most significant for a topic and to develop precision in formulation requires much preparation, a way to do this is through a literature review. Although not an end in itself, reviews of previous research help to develop sharper and more insightful questions about the topic (Yin, 2003). The literature review makes use of data sources such as documents, newspaper articles, journals and books. It provides the theoretical framework for such a study, deepens the understanding of the issues faced and complexities, as well as helps in the data determination process. Today, Internet searches are increasingly being utilised, for it is a “planned and strategic use of networked computing to track down reliable data, reference materials and other relevant sources for use in research, differing only in scale and technical procedures from other searches such as literature reviews, library catalogues and archives” (Payne and Payne, 2004: 120).

3.5 Ethics Pertaining to the Research

Due to the sensitive nature of the study and the vulnerability of the respondents, it was important that the research was conducted in a manner that conformed to accepted ethical practices. This ethical practise is not merely an add-on in the research design, but is a central concern and practice (Payne and Payne, 2004). Hence, the conduct of the researcher/s and their responsibilities as well as obligations to those involved in the research must be beyond reproach when

examined and therefore prior to commencing the study, ethical clearance was obtained from the University of KwaZulu-Natal's Research Ethics Committee.

Dowling (2005) suggests that using qualitative methods often involves the invasion of someone's privacy, and this was especially evident in the refugees' lives. In order to 'protect' the refugee respondents in the study, names were omitted from all documents and write-ups. Where necessary pseudonyms were used in order to mask the identifying characteristics of individuals (Dowling, 2005). Also, where necessary, pseudonyms were used for towns and villages in order to ensure that privacy was kept.

Before research of this nature can take place it was imperative that informed consent was obtained from participants and respondents. However, this was not merely by the participant stating that he or she was willing to be interviewed.

The researcher had to gain the trust and confidence of the respondents before they agreed to participate in this study. This was initiated through several formal and informal meetings with the respondents.

A broad outline of the research proposal was discussed with the refugees. In order to deepen the trust between the researcher and researched as well as to 'do meaningful research' participants were provided with an opportunity to provide feedback. This was in terms of whether they thought the proposed

research was a good idea; that the sorts of issues to be covered were suitable; and to constructively criticise the researcher's aims and objectives and methods.

This form of engagement was useful in many ways. First, it assisted with the power relation that exists between researchers and researched, whereby the researcher invariably is the one in power. This form of engagement enabled the generally less powerful and vulnerable to influence the study and to thereby gain more of an equal standing with the researcher (Dowling, 2005). Although the researcher still had the power to accept or reject suggestion, as an outsider such consultations were an imperative part of the process as it facilitated understanding the issues that refugees faced. Lastly, a relationship between the researcher and the respondents built on trust was established. Trust is fundamental in this type of research, due to the need for life histories to be revealed, for traumatic events to be brought to the fore and for people to openly speak about their situation. Therefore, by asking for their help and assistance upfront from the initial stages resulted in the respondents developing a sense of being more than mere research subjects.

In order to ensure the study does not exploit, misrepresent or harm the participants, they identified key individuals who, if they wished, would read this thesis and suggest possible changes if these were considered necessary.

3.6 Limitations

Refugees, a hidden population, are a group that hides and desires to forget many of the histories we want to know. The urban refugee situation makes for a complicated research setting opposed to the more obvious camp style setting. The reason for this is that research on refugees in an urban area is less orderly and transparent, legal status is not always determined and backgrounds and concerns more diverse (Lammers, 2005).

There are several challenges when working with refugees, and these include:

- Building trust between researcher and researched.
- Once befriending refugees, a problem is how does one exit from the research site without leaving behind a sense of disillusion (Jacobsen and Landau, 2003).
- Problems were encountered because many of the refugees were not fluent in English. Thus, there was a risk of a biased response resulting from the use of translators or local research assistants (Jacobsen and Landau, 2003). In this study the researcher was involved in personally collecting all the data.
- Urban refugees are a 'hidden population'. Therefore it was difficult to obtain a research sample.

Particular limitations within the study site, Pietermaritzburg, included:

- The lack of organisations that represented refugees initially made it extremely difficult to “find” refugees who could be part of the study.
- The fact that the researcher was young, white, single and female resulted in many refugees viewing her as a ‘daughter’. The reason for this is that many of them had children close to her age. Although a limitation in one sense, it did help refugees feel less ‘threatened’ which enabled a relationship of trust to be built.
- It is extremely depressing to realise the limits of one’s own capacity, which is not far reaching enough to make an impact on the lives of these refugees. The deeper the researcher probed, the more challenging the picture which was painted: a picture that was somewhat grim and one where more work needs to be done, way beyond a master’s thesis.
- An obvious challenge was that the researcher was and is an outsider, and has never experienced the conditions and events that the refugees were reconstructing.

Therefore, in order to overcome these limitations, several ‘processes’ were undertaken. In order to “see” one of Pietermaritzburg’s hidden populations the first step was coming into contact with refugees. The researcher in this regard had already established relationships with refugees due to involvement in a local church: Pietermaritzburg Christian Fellowship (PCF). This initial entry point was invaluable to the research as it was in the church that many initial links were

made, and hence the networking process was established, and trusting relationships were forged.

Perhaps the biggest struggle, and one for which there is no easy answer, is when does one exit the research? There is no general answer to this question. However, one does not want to study just for the sake of attaining a higher degree but rather wants to bring about change. The primary factor that was to be avoided in this research was leaving the refugees with a sense of being 'used and abused'. Hence, relationships were built not only during the study, but also after the completion of the study.

Before any questions were posed the researcher spent roughly a year getting to know the refugees and building trust. The refugees were not simply some sort of sample population to conduct experiments. Rather, they were human beings in a strange world, with little assistance, support and 'local' friends. The researcher's experience in Pietermaritzburg concurs with that of Ellen Lammers' in Kampala (replace Kampala for Pietermaritzburg):

Can I as a foreign researcher become an insider in Kampala's urban refugee milieu or will I always remain outside? And if I remain an outsider, can I come to know anything at all? ... I know it comes close to blasphemy in science to say so, but I still think it is true: what I as a researcher see or do not see about people's lives and identities considerably depends on trivialities like my own state of mind ... the role of the researcher as central in the construction of knowledge remains underestimated. It is the researcher as a person (identities, prejudices, soft spots, character and

interests), raised in a certain intellectual and political tradition, and in interaction with other persons, who shapes the research project as well as its outcome. (Lammers, 2005:8)

3.7 Conclusion

Methods for research are numerous. Research regarding refugees requires a unique set of methods as refugees are a hidden population who have, and some continue to, live a life filled with fear. Hence, the most important part of the methodology for this study was gaining the trust of the refugees. The research was a continual process that took many months to complete, mainly due to the time that is required and necessary to build a relationship with refugees and to gain a holistic understanding of the situation in Pietermaritzburg. The research was mainly based on qualitative approaches as these were essential in investigating the dynamic social processes that were part of the life of refugees.

Chapter Four

Refugees in Pietermaritzburg

4.1 Introduction

This chapter presents an analysis of data collected from 12 written life histories, numerous interviews, observations as well as data from other sources such as the National Consortium of Refugee Affairs (NCRA) and the UNHCR. The study was conducted in Pietermaritzburg, the reason for this choice was due to the ease of access and a need for research on refugees in Pietermaritzburg. All persons referred to as refugees in this study are those who are in possession of a refugee permit issued by the DHA. This chapter is divided into four sections: the first section begins with one of the refugee's stories followed by general trends in South Africa and KwaZulu-Natal. The bulk of the chapter is based on the life stories and life experiences of refugees in Pietermaritzburg.

4.2 Refugee Narratives

The intention of the study was to learn about individual refugee's experiences, how he or she understands and perceives the world around them, hence the refugee narratives provided this. Refugees are people with extraordinary stories, people who have overcome the harshest realities: families murdered, escaping death, protecting others when they could be killed for doing what was right. The refugee is more than a definition in a Convention (see Case Study 1). During the research, it became clear that only when one knows a refugee's story does one start to understand what it means to be a refugee. One stops judging and laying

blame on 'them' for taking jobs. It is only when one understands the deeper tragedies that refugees have had to face and continue to face that one acts out of true compassion, and looks at how, even in the smallest way, change can be made.

Case Study 1: One man's story (Refugee Correspondent 3).

Firstly, I grew up an orphan. My father was killed in the genocide of Hutu in 1972. After that, my brothers were persecuted by Tutsis. My brothers had to run away from the country to Tanzania they found that the life was not tenable. They came back in 1985. I remember that they had to hide themselves in the bush because when the soldiers heard that there were people who came back they started to fetch them saying that they are robbers who came to attack the country. My mum had to sell a small part of our property so she can go to ask forgiveness to the governor to let my brothers stay in the province. This protection letter did not allow them to leave the native province.

We grew up in the terror. This oppression on my family remained because they [government] thought that we would take revenge for our parents. All of my family had to change his or her name in order to study or do any business if not, he or she was killed. I went in the other province to do my studies. It was in 1998 when I left my country. This was after three years that I could no longer hide myself in my country.

4.3 The South African Context

For many displaced people, life beyond the border of origin is only a hope for a few; life in a country far from one's country of origin is even less of an option (such as Burundi and South Africa). According to Jacobsen (2005), most refugees do not travel beyond the border and if so most stay close to home to keep watch of the situation. However, those that have the resources move beyond. The picture which is often portrayed in media of a mass influx of cross-border movements and streams of people does not truly describe many refugee situations:

South Africa has not experienced thousands of people streaming in at once, but there is the ever increasing trickle of people, adding to the numbers daily of people applying for asylum ... so far I can only remember the recent Zimbabwean situation where there was mass influx, but for the most part people try to travel discreetly as small groups or individuals. (UNHCR correspondent, 10 November 2007)⁵

However, research shows that the general perception from residents in Pietermaritzburg is that they are unaware that refugees are part of the demographics of the city, and many simply regard all refugees as illegal immigrants who are here for purely economic reasons.

I sometimes find that the citizens not understand the difference between a Refugee and a visitor or a business man or an illegal. They often put us in the same basket. Some even manifest certain xenophobia and this situation causes me to be more desperate. (Refugee correspondent 6)

⁵ Telephonic discussion with UNHCR official, 10 November 2007.

The refugee is not easy to distinguish among other groups of migrants, such as illegal or legal immigrants. There is no sign to say they are refugees, as refugees live among the South Africans yet, general society knows very little about a refugee. The media has produced a perception whereby people tend to think of refugees in developing countries as living in camps and not cities (Jacobsen, 2005). The perception that a person often has is as such: What, there are refugees in our town ... well now that one thinks about it I have seen a couple car-guards. Surely there are not that many, and are not most economic migrants rather than genuine refugees?⁶

4.3.1 General Trends

At the beginning of 2006, South Africa was host to approximately 140 000 asylum seekers and 30 000 legally recognized refugees. Since 2000 the number of asylum seekers has steadily increased. The total applications in 2005 was 169009 (NCRA, 2006). General trends of 2007 asylum seekers are summarised in Table 4.1.

⁶ Throughout research conversations were had with Pietermaritzbrug residents and often this was the type of answer that was given

Table 4.1: Number of Asylum Seekers in South Africa

New Asylum Applications in 2007:	45,673
Number of New Asylum Applications Decided in 2007:	5,879
Percentage of Applicants Given Refugee Status:	29%
New Backlog in Asylum Cases in 2007:	39,758
Pre-2007 Backlog in Asylum Cases:	49,275
Total Asylum Case Backlog:	+89,000
Asylum applications from selected countries:	
Zimbabwe:	17,667
Democratic Republic of the Congo:	5,582
Ethiopia:	3,413
Malawi:	3,341
Somalia:	2,041
Bangladesh;	1,982
Pakistan:	918
Unconfirmed Estimates of Zimbabweans in South Africa:	1-9 million
Estimates of People Displaced by Violence in South Africa:	30,000-125,000
Estimates of Mozambicans and Zimbabweans who Fled South Africa after Violence:	25,000-35,000
Approximate Number of People Deported in 2007:	+300,000

(Source: CoRMSA, 2008).

Table 4.1 shows highlighted that there is an increase in the number of displaced people seeking refuge in South Africa, especially in the number of Zimbabweans. This increase has in turn increased the tension on the capacity of the state and its resources (DHA, 2006; NCRA, 2006). Despite efforts to curb this backlog: *Operation Backlog*, the number seems to be increasing at a faster rate than applications are being processed (Landau, 2006). Poor planning and inadequate preparation for the post implementation of the progressive Refugee Act No. 130, 1998 is seen to be largely responsible for the backlog of applications, with too

few trained officials being hired from the start (Groot, 2004). Importantly, these problems have not gone unnoticed and refugees, asylum seekers and other non citizens have been the centre of discussions and debate, not only post May 2008 (Mail and Guardian, 24.05.2008). The DHA had already sought in advance of May 2008 to reform the country's refugee and asylum system with the initiation of a 'Turn Around Strategy' (CoRMSA, 2008). At the beginning of 2008, meetings were held regarding the Refugees Amendment Bill [B 11-2008]. Although the Refugees Act, 1998 provided good policy, many challenges were faced when implementing it. Thus a 'Turn Around Strategy' is being initiated by the Director-General of the DHA (Parliamentary Monitoring Group, 2008). This strategy was in response to a report on the DHA challenges in 2007 and hopes to overcome the challenges that are continually identified such as the lack of resources, both financial and human, to effectively assist asylum seekers and refugees, allegations of corruption within the department and the general state of the DHA (Parliamentary Monitoring Group, 2008b; CoRMSA, 2008).

4.3.2 KwaZulu-Natal

Zimbabweans were by far the largest group of asylum seekers among those arriving in 2007 (see Table 4.2): of the 35 137 applicants 4 755 were from Zimbabwe, with only 91 of those applications finalised.

Table 4.2: Total Number of Applications made at the Durban Refugee Reception Office in March 2007

	Applications Received	Applications Finalised	Applications Pending
Country of Origin	Total	Total	Total
Angola	167	72	95
Bangladesh	1859	13	1846
Burundi	2866	1069	1797
Eritrea	190	19	171
Ethiopia	3146	220	2926
Ghana	407	96	311
India	1005	40	965
Kenya	657	17	640
Malawi	626	2	624
Nigeria	1039	201	838
Pakistan	2700	288	2412
Somalia	962	553	409
Tanzania	1675	3	1672
Uganda	859	40	819
DRC	9560	4063	5497
Zimbabwe	4755	91	4664
Other	2664	811	1853
Total	35137	7598	27539

(Source: Department of Home Affairs, 2007⁷).

⁷ Personal Communication, DHA RRO Durban March 2007.

4.4 Refugees in Pietermaritzburg

Reflecting on receiving-refugee cities/areas (i.e. those that play host to the millions of displaced persons worldwide) one does not generally think of cities such as Durban, Johannesburg, Cape Town and least of all Pietermaritzburg. Yet, together these cities host thousands of refugees and asylum seekers, not housed in tents but as urban refugees integrated into society (Bailey, 2004). Travelling by any means possible, a refugee's journey is one that passes through many countries often for a couple of years before entering into South Africa:

I did not start out coming here [South Africa]. At first I spent time in camps ... horrible, heard about things that were different in South Africa...we went in 4 countries before here ... taking us three years to come. (Refugee correspondent 9)

4.4.1 Background to the Refugee Community

Although Pietermaritzburg does not have an RRO, and is roughly 90kms from the closest office (see Figure 3.1), it has no formal refugee assisting organisations or legal boards but refugees are still present in the city. Pietermaritzburg is currently home to 1 650 legal refugees of which, 1 000 are married, 450 are children in either primary or secondary school, and 200 are single.⁸

The refugee community in Pietermaritzburg is made up largely of individuals from the DRC, Burundi, Ethiopia and Zimbabwe. It is interesting to note that at the

⁸ This is a rough estimate as these are the refugees who have made themselves known, and numbers change daily.

beginning of the research many Zimbabweans were illegal immigrants. However, with the changing political situation many Zimbabweans are finding legal asylum in South Africa today.

Life stories show that refugees in Pietermaritzburg should be viewed as potential assets to the country rather than an uneducated mass. Research revealed that the refugee community is made up of ministers, students (undergraduates and postgraduates), teachers, businessmen, lecturers, engineers, farmers, medical students, craftsman, artisans, health professionals and military men. These same people are now hairdressers, barbers, seamstresses, security guards, mechanics, gardeners, informal traders and students. Livelihood options are slim for refugees in Pietermaritzburg, many do not find employment and therefore create their own, while many work in a job that is well below their training:

As I am speaking now there is not any help that I receive from the Government. I have to do any kind of job that presents itself to me ... For example I used to work as a security guard. If you check on our document it states that we are allowed to work and study. But, when you go to apply for a job you will be asked to provide the SOB (Security Office Board). When I went to apply for it I was told that this document is given to South Africans only. As a consequence most employers take advantage of us refugees; our wages are cut and sometimes we suffer from mistreatment as our employers know that we've got no other way to go. (Refugee correspondent 10)

4.4.2 Factors Forcing Displacement

All refugees interviewed had come to South Africa from countries where there was war, persecution, human rights abuses:

I left the country because of the war. I was attacked several times by a group of rebels who wanted me to join them ... if you join you will never be allowed to leave ... forced to kill and murder ... my family said I must go. (Refugee correspondent 12)

I was part of the militia ... commanded to kill a family who had not done any harm ... I told them to scream as I shot the bullet around the hut ... I left the hut and told the commander they were dead. We left that place but soon he found out that family was not dead ... he wanted me dead. (Refugee correspondent 7)

I never thought I would be a refugee because I used to work for the UNHCR in my country ... I left with my husband, we saw terrible things ... how can people be like this? (Refugee correspondent 5, female)

My family was killed so we had to go. Shooting and fighting was everywhere. Children were dying. The people shoot at everyone, women and children to. My village that I lived in was destroyed and I had to go. It was very sad to go but what could I do? (Refugee correspondent 10)

Although each story is unique the reasons that forced people to flee were similar across the refugee community, differing only in detail.

4.4.3 The Journey

People fleeing often have to make quick decisions about leaving, and flee with very little. Some manage to leave with money, a car or a bicycle but for many they leave with nothing. Most refugees travel in small groups with a steady trickle

of movement across the African continent. The journey of a refugee is often not predetermined, fleeing to countries of refuge which are sometimes a neighbouring country, but not always (Jacobsen, 2005). The journey of refugees in Pietermaritzburg generally spans several years and several countries:

It took very long for me to be here...I spent time in Tanzania, Mozambique and here. It took me and my family three years to reach South Africa [from Burundi]. (Refugee correspondent 3)

When fleeing [DRC] I have been to ten different African countries [excluding South Africa]: Rwanda, Burundi, Uganda, Tanzania, Kenya, Somalia, Eritrea, Malawi, Mozambique, Zimbabwe, and South Africa. (Refugee correspondent 7)

I remember that I have passed through Tanzania, Malawi and Mozambique but I can't remember exactly how many days I spent in those countries but I spent approximately one week (7 days) in Tanzania, about seventy days in Malawi and four days in Mozambique. I did not spend one day in a camp. (Refugee correspondent 12, Burundi)

The journey of a refugee is not easy and many face difficulties. Refugees in South Africa have often journeyed through at least three or four other countries. However, safety is not guaranteed once a person has fled his or her country. A Congolese man faced continued persecution even once out of the DRC:

In all these countries [the 10 mentioned previously], I was not safe politically. Sometimes I can meet a Congolese brother who is against me because of the ethnic group of my mother. Then in the refugee camp they plot with others from different tribes kill me because of what my tribe did to theirs. They link me to what happened to them which was kidnapping and killing. (Refugee correspondent 7)

4.4.4 Pietermaritzburg, the ‘City of Choice’

Pietermaritzburg is a new refugee-receiving city. With no formal structures in place to assist refugees, there begs the question as to why refugees came to Pietermaritzburg and did not stay in Durban or Johannesburg where one would perceive life to be a easier due to the assistance that is provided by various organisations within those cities. There are several reasons for this, some of which apply to South Africa as a whole:

- i) South Africa, is one of only two countries on the African continent, other than Egypt, which has created a refugee system whereby all refugees are not to be housed in camps but are integrated wholly into society. Thus, all refugees are urban refugees and local integration is seen to be the most appropriate temporary assistance strategy. All refugees interviewed agreed that they would prefer to live ‘freely’ in South Africa, opposed to a camp. For a refugee, a camp is a prison, a place that is dangerous and offers very little and just qualifies as humane.

I lived in a camp for seven months. All you do is sit in a shelter. Lots of people around you, nothing to do ... you lose something of yourself there. (Refugee correspondent 8)

First I was in a camp but this was horrible so I left and came to South Africa. For a long time I have been here but things are better. There is more freedom. (Refugee correspondent 10)

Camps are the main response for assistance across Africa, even though “they may be inefficient and miserable, but they are eyesores and, as such, likely to attract at least some funding” (Jamal, 2003:6). Is this the

way to go in South Africa? If the main problem for a refugee is lack of assistance and for the government it is a lack of financial resources then should South Africa not demarcate areas for camps and solve both problems? However, camps act as a 'kennel to house animals', providing food and water with protection not even a guarantee.

80 percent of refugees interviewed were not asking for handouts, not asking for a weekly food parcel, but rather refugees were asking for a country that would accept them. A place where they can use their skills or learn new skills, have freedom and regain a sense of worth of which a camp does not offer.

- ii) South Africa is seen as the pearl of Africa and often an idealised destination point for many:

Long time ago when I was still in my country I use to hear that South Africa is a peaceful country. I use to hear how Mandela has done great things. That different people from different backgrounds have managed to overcome their differences and live together in harmony. Therefore I thought that if I manage to come to South Africa I will be safe. (Refugee correspondent 1)

This is the view that many Africans hold, the promise of a hope and a future in a country that has been praised for their attempt to uphold human rights and the strong stand that the country has made in the post-apartheid era (seen in the culmination of the South African Constitution

and the Bill of Rights). Refugees are not exempt from the Bill of Rights; rather, they have the right to all rights enshrined in the Constitution bar the right to vote (Crush, 2001 and NCRA, 2006) (see Table 2.4 and Table 2.5). The laws and conventions pertaining to the rights of refugees and asylum seekers are: “intended to guarantee physical security, access to critical social services, and access to courts and due process of the law” (CoRMSA, 2007:5).

- iii) Social networks, how people join groups, communities and or organisations play a prominent role in the life of refugees, especially in the decision of where one is located. The concept of a network is where affiliations that exist amongst blood relations, friends, fellow citizens of country of origin and like minded groups serve an important role in settlement patterns (Begum and Mahmood, 1997). Thus, this informal network plays an important role for refugees in Pietermaritzburg many of whom are here due to a relative or friend. Often they did not know about Pietermaritzburg until they have arrived in Durban and are able to contact other community members:

I came here [South Africa] very long after my brother. He had come here [Pietermaritzburg] and told me to come also ... he had a job and I could work there to ... I did not know anyone but him so I came to him. (Refugee correspondent 12)

We came to Durban and had nothing ... After awhile we came to Pietermaritzburg as a friend told us it is much better. He also

showed us how to apply for studying and now me and my husband are students at the University. (Refugee correspondent 5, female)

The sense of family often extends beyond formal lines and includes “my Congolese brother” who is a fellow Congolese national. Social networks also assist in “an anchoring function” (Begum and Mahmood, 1997: 2), as these connections provide a support and assistance structure.

- iv) All refugees felt that Pietermaritzburg was safer and one could “hide” in Pietermaritzburg whereas in Durban a refugee was constantly harassed by police and the general public. Even though Pietermaritzburg does not offer services for the refugees as Durban does, a predominant feeling amongst refugees interviewed was that Pietermaritzburg is still better:

It is better here, less busy, the police do not care for us that much ... still get beat up but not as much. Also better to be quiet in a quiet place. (Refugee correspondent 4)

Here in Pietermaritzburg I am secure and safe because I found people who do not know me seriously and the majority of them are not involved in someone’s private life. (Refugee correspondent 7)

During the research process it was interesting to note that all interviews with Zimbabweans revealed that most were not comfortable with sharing too many details as they referred to a “reign of terror” currently in Zimbabwe and were afraid that “someone” would find them in South Africa. Hence, for this very reason a smaller town seemed to be more suitable. Even though Durban is a city whereby it is easier to ‘get lost in

the crowd', many feel that the 'crowd' in Pietermaritzburg is better than Durban.

- v) Economic reasons cannot be ignored. Although it is important to note that this is not a refugee's primary reason for leaving his or her country the opportunity for a better life in South Africa is attractive. Refugees leave countries with little or no resources; however, the ones that make it into South Africa are often then ones with more resources. About 20 percent of refugees do not want to return home. Although life is hard in South Africa there is more opportunity in this country. However, this is not the general perception.

4.4.5 Hardships Faced

Even though refugees and asylum seekers are entitled to many rights they face many hardships in trying to access them. There have been calls for an improvement in the efficiency of the DHAs management of the asylum determination procedure, which has so far led to incredibly long delays, and a substantial backlog in applications. There are not enough resources (especially staff) to process the steadily increasing number of applicants (Handmaker, 2001). Below is a list of the hardships faced by refugees in Pietermaritzburg including difficulty in dealing with Government and the UNHCR, xenophobia, and a lack of access to basic services and needs.

i) *Government and UNHCR*

South Africa guarantees rights to asylum seekers and refugees in law (Table 2.4 and Table 2.5). However, accessing these rights is extremely difficult (NCRA, 2006). The DHA has a critical role in influencing the wellbeing of refugees, because this Department has the sole responsibility of determining refugee status. Due to the fact that the refugee has to integrate him or herself into society, find work and access social services in order to survive it is essential that applications are dealt with in a timely manner. Upon arrival the first obstacle that asylum seekers are met with is a lack of proper documentation:

When I arrived here it was so painful for me. I arrived here in Pietermaritzburg and yet the only Home Affairs that could receive me was in Durban. For me I can say that the Government seems as if it is not seriously concerned about our situation. When I arrived at Home Affairs I did not receive the document the same day I have to come back again. (Refugee correspondent 9)

I went to the Home Affairs, they had no forms so I had to write things on a blank paper and was told to come back another day. (Refugee correspondent 3)

If it is not a lack of documentation then delays in the determination process have affected every refugee:

The application process is very slow sometimes I have to apply two or three times for the same document. Beside that, when I do receive it the document has already expired. (Refugee correspondent 1)

The application process is very slow and bad. (Refugee correspondent 3)

Permits, identity documents and status determination influence the rights of a refugee. A process that is meant to take 180 days can take up to three years for some. There were also problems associated with renewal of permits:

The [RRO] wrote on a paper ... cops looked at it and said I made it up ... I spent 1 week in jail because of that paper. (Refugee correspondent 5)

I had to go and renew my permit so I went to the office and they had no forms so I had to write things on a blank piece of paper and told to come back another day. When we tell police this they do not believe us. Many of us go to jail because DHA has no forms. This is not fair. (Refugee correspondent 3)

Pietermaritzburg refugees acknowledge the increasing amount of asylum claims, however, the general perception is that government could do more as it is not always about resources but rather about the fact that they do not care. Therefore, the refugees have called for transparency in government stating that:

UNHCR says it gives money to the government to help ... but what happens to that? ... Corruption is not only in the Department of Home Affairs but also in the UNHCR because if you pay the right amount you get status ... but we do not have money. (Refugee correspondent 2)

All refugees interviewed complained about the state of the RRO and the application procedure. All refugees experienced long delays and problems at the DHA. Corruption is prominent, a process that is free (process of applying for refugee status) often costs refugees financially. This was evident from experiences at the Durban RRO.

Refugees have called the role of the UNHCR into question:

UNHCR is still the big boss so they need to be harder on the South African government. All we know is that UNHCR says this is the budget, Government takes it and then what? (Refugee correspondent 3)

UNHCR needs to play a bigger role. They need to watch DHA and get them to do their job properly. (Refugee correspondent 12)

Landau (2008: 106) affirms these concerns as well as semi justifies the problem with UNHCR:

The social and spatial dispersion of urban refugees renders such specialised assistance unsustainable or simply untenable. The UNHCR and other agencies may have offices in urban areas supported by individual organisations' refugee-orientated programmes, but there are unlikely to be the financial and human resources needed to assist all urban refugees.

Often the refugee is looked at as the problem, whereby the answer to the problem often lies in the structure of assisting and supportive groups, such as the UNHCR.

Case Study 2: Durban Reception Office

From visiting the Durban Refugee Reception Office (RRO) it is clear from the onset that it does not have the capacity to deal with the number of asylum applications being received. As of March 2007, a total of 35 137 applications had been received with only 7 598 applications finalised (this number excludes appeals). On the first visit the most helpful person proved to be the car guard in the parking lot who was able to point the researcher in the right direction. After talking with the assumed key person from the RRO an interview was set up. This was not an easy task as repeated assurances had to be given that the need for an interview was not to shame the RRO but to provide insight into a Masters degree. A meeting was set up for the following week. However, it was stated that it could not be guaranteed. On the second visit to the RRO, and the first time into the actual office what was seen was astounding. First sight showed asylum seekers waiting in a long queue, those that were being helped did not have the aid of an interpreter. Secondly, lack of resources was evident, from staffing capacity to computers – hundreds of files were stacked on the floor at every office door entrance as well as the office in which the interview was held. It is no wonder that several refugees have complained that the DHA notified them that their applications had been lost. Thirdly, after arrival, asylum seekers are shouted at and disrespected. Many asylum seekers desperately needed the aid of an interpreter.

It was evident that the RRO staff are aware of the shortfalls within the Department, not only in KZN alone but, across South Africa. The RRO correspondent stated that these are the issues which they currently face:

There is not enough manpower to do what the Act says ... corruption is very bad. We are short staffed, use outdated systems which hinder service delivery and slows the process down. There is a language barrier and the asylum seekers themselves have very bad attitudes and are hard to deal with. (DHA, personal interview (RRO-DBN) March 2007⁹)

It is clear that the capacity of government is insufficient and has disastrous effects on the livelihoods of refugees due to the inability of day-to-day implementation (DHA, 2006; NCRA, 2006). Yet, seemingly little is being done to overcome these problems. The Durban office is understaffed and the “system that is outdated”, although at first impression there seems to be no system at all. Due to the number of applications, 35 137 in total for the Durban office alone (2007 statistics), staff cannot keep up. Hence, there have been calls for an improvement in the efficiency of the Department of Home Affairs’ management of the asylum determination procedure, which has so far led to incredibly long delays, and a substantial backlog in applications. There are not enough resources to process the steadily increasing number of applicants. There is a limited number of staff, many of whom need training.

⁹ Department of Home affairs, personal interview 10 March 2007.

These findings concur with the NCRA's findings of 2006 that the key problems that existed in 2006 have not been resolved, two years later:

- Initial access to asylum procedure,
- Delays and irregularities in the status determination process,
- Inadequate resources dedicated to addressing the massive backlog of asylum claims,
- Lack of access to documentation, and
- Unlawful harassment, arrest, detention, and deportation.

ii) *Xenophobia and the locals*

Xenophobia in South Africa is racialised with the majority of black African foreigners facing discrimination and abuse (SAHRC, 2004). Pietermaritzburg is home to many who are struggling, refugees and South African citizens alike; many are in dire poverty and lack access to basic human needs. With growing poverty and basic needs not being met, mounting resentment is beginning to be expressed in destructive ways. Xenophobic attitudes have translated into violent attacks on foreigners across the country. Pietermaritzburg is no different. Although reported cases of violence were low the refugees:

After six years of being here I still stay inside. Because you walk on the street and say hi to someone and you never know he could try and stab you. (Refugee correspondent 8)

They call us ama kwerekwere, this is not a nice name for us! (Refugee correspondent 6)

In popular and official (mis)perception, little distinction is made between various categories of migrants (Crush and Williams, 2001). The DHA continues to use the words 'undocumented' and 'illegal' as one and the same. Therefore asylum seekers who remain undocumented due to ineffective legislative procedures are commonly regarded as illegals as criminals (CoRMSA, 2008). Not only is there misconception of who a refugee is, many also become scapegoats for the country's ills: High levels of unemployment, a struggling economy, elevated crime levels and widespread insecurity have led to the harassment of migrants. Locals believe that the presence of refugees is linked to the rise in criminal activity, delinquency, street prostitution and drug proliferation (Jacobsen, 2005). Yet, the most disturbing trend that xenophobia shows is the threat that such attitudes have on stifling the emerging culture of human rights in South Africa (Bell, 2000). The way migrants are perceived is fundamental, as it is one's perceptions which are then translated to attitudes and finally into actions (Crush and Pandelton, 2004), such as ignorance, resentment, harassment and violence (Jacobsen, 2005). A refugee explained this as follows:

It is not easy ... different backgrounds, different languages ... we have darker skins ... I sometimes find that some of the citizens don't really understand the difference between a refugee and a visitor or a business man. They often put us in the same basket. Some even manifest xenophobia and this situation causes me to be more desperate. (Refugee correspondent 11)

Many Pietermaritzburg citizens do not act out violently towards refugees but at the same time are not willing to help when there are so many other South Africa citizens who need help. Perhaps the most disturbing harassment refugees' face is from the Police force and the DHA:

The people who teach others about refugees are the one who are most xenophobic ... It became very hard because there is no one who talks on the behalf of South African refugees especially those one from Pietermaritzburg. A good example is that there are so many refugees who get killed and there are no policemen who follow the case. I remember in 2000, I reported a case to the police station, my haircutting salon tent was stolen by the person who was in charge to keep our stuff because we were paying him and this case was not accepted because of the only fact that I am a refugee. This happens to many refugees. (Refugee correspondent 2)

People are trying to make by but it is very difficult as cops treat us badly. We try to be good and sell in the market but locals scare us and do not want us to be there. One day there was a fight [in the market] and the police came. Asking no questions they removed us [refugees] and threw us into jail even though it was not our fault. No one asks questions, everyone always thinks the refugees are to blame. (Refugee correspondent 8)

iii) *Access to Resources*

A refugee's life is marked by a lack of, access to rights, social services, and employment. The lack of employment is the most notable problem refugees' face. During the research period all refugees asked for financial assistance or help in finding employment. All have looked for employment, many unsuccessfully. Some feel that this is due to:

In general refugees are undermined in South Africa. There are no jobs for them because every manager is requesting the green ID [Identity Document] book which is not given to the refugees. (Refugee correspondent 3)

Refugees are issued with a different ID from South Africans. Even if refugees received an ID many complained that companies did not believe them that it was not fake:

It is like I made it at home ... owners don't believe that it is real. (Refugee correspondent 3)

Not only is employment hard to find but exploitation is often endured:

Most employers take advantage of us refugees and our wages are cut off and sometimes we suffer from mistreatment as our employers know that we've got no other place to go. (Refugee correspondent 10)

I left after 3 months of work [on a farm in Mooi River] because he was paying me R300 a month. This was my entire earnings and I still had to pay for my family's accommodation in Pietermaritzburg. (Refugee correspondent 4)

Even so, with unemployment across South Africa at twenty- five percent, and many refugees not being able to speak English, employment opportunities are difficult. However, a potential and effective project is being discussed in Durban whereby refugees are being employed in the hospitality industry due to their understanding of multiple languages, often

French, Portuguese and English (Mennonite Society, 2007 personal communication)¹⁰.

Another major problem is a lack of access to services. Access to housing is problematic since many refugees rely on informal trading and very few have stable incomes, therefore they cannot afford adequate housing. Frequently three or four people share a room so that they can afford rent. Common problems relating to housing were highlighted as follows:

The only reason we live in the towns is because we cannot live in the cheaper township, it is not safe for us to be there ... people are so horrible ... The tenant does not like us and charges too much for what we get, but if we don't pay then where would we go. That is why many of us share rooms ... we are not citizens, even when we are told we will be treated like everyone we are not ... we do not get subsidies for housing ... because we are not citizens. (Refugee correspondent 10)

Refugees live in the 'old Pietermaritzburg' (Figure 3.1), where houses are dilapidated and conditions are poor. All refugees interviewed lived within a three kilometre radius of each other. The reason for this is that refugees live where other community members live, rent is cheaper as they are able to share houses, protection reasons and for fear of abuse by locals in townships hence the run down part of the city has become home. Overcrowding is becoming more of a problem in the refugee community.

¹⁰ Personal communication via email: May 2007

With seventy percent of all interviewees sharing a room, one of which had up to 30 people in a standard home.

This study also revealed houses where between 30 to 40 people were living. These numbers were made up of illegal and legal refugees. It is examples such as these that highlight the need for action in this area. The housing subsidy that is afforded to South African residents does not apply to refugees'. Hence, with unreliable, low incomes, housing is becoming a serious problem, more so when they are forced to live in town and not the cheaper townships.

Access to health services is also problematic as many refugees are met with xenophobic attitudes, or are told to wait until locals are served. All refugees interviewed shared the same view that they do not get the required help from local clinics or hospitals. An issue that was raised was that refugees did not have access to Antiretroviral treatment (ARVs). Research by the CoRMSA (2008) also shows that many refugees are not being granted treatment as they are the 'foreigner' and are not in possession of a green South African ID book. Also communication with a hospital HIV/AIDs counsellor revealed that the refugees concerns are a reality.¹¹

¹¹ Personal communication: counsellor from Northdale Hospital, 26 April 2008.

There are at least 450 refugee children in Pietermaritzburg. This means that in terms of South African law they have the right to an education. However, 50 percent of the respondents stated that they do not have the means to enrol their children in school. The limit to refugee children's education is problematic as future options are often slim for refugees in their country of refuge, as well as origin, if no education has been attained.

Access to social services, due process of the law and physical security are levels of measurement that one can use to assess the efficiency and effectiveness of South Africa's laws and conventions pertaining to refugees. The experiences such as those below confirm recent reports and findings that South Africa is not meeting the requirements of the Refugee Act or the UNHCR conventions:

I slept on a veranda for two weeks. Each time I was thanking my Lord to keep me alive. I do not know how I was able to eat at that time (afford to). (Refugee correspondent 4)

I face multiple problems, that of home affairs, accommodation, employment ... it is difficult to for us to have any possible free social assistance unless if I use money (corruption). (Refugee correspondent 2)

Even though refugees are entitled to disability grants and social assistance, under the still inactive Refugee Relief Fund (CoRMSA, 2008), little seems to be happening for refugees of Pietermaritzburg.

4.4.6 Assistance Offered

South Africa has an increasing number of refugees and levels of xenophobia are on the rise, as seen in May 2008. One of the main explanations of the rise in xenophobia has been to an already struggling social system that is unable to meet the needs of masses. And, refugees are the easiest scapegoats. However, refugees feel that these perceptions are unjust as:

We cost the government nothing ... government complains about all the social problems that already exist – well they would exist without us ... and are informal settlements are fault-no, so stop blaming us. We pay to get our status and then government gives us nothing ... everything is blamed on us. (Refugee correspondent 9)

Initial findings revealed that in effect nothing was being done for refugees in Pietermaritzburg. No organised body had officially been set up. However, a group of refugees were in the process of registering an organisation: Pietermaritzburg Refugee Council (PRC). In order for the refugees to register as a body they needed an organisation to act as the 'umbrella body', in this case the KZNCC (Pietermaritzburg) acts as the organisation. Upon interviewing key personnel at the KZNCC it was felt that much more could be done for the refugees. Hence, as a researcher a prominent role was taken in the PRC and aiding in the forward movement of what was necessary to the well being of the Pietermaritzburg refugee community.

Organisations that assisted the refugee community: Salvation Army, KZNCC and individual churches: My family is assisted by the Salvation army in terms of food and transporting my children to school. (Refugee Correspondent 4).

Most assistance is *ad hoc* and inconsistent. The refugees were only beginning to organise themselves, with the main focus on the institutionalisation of the PRC. KZNCC provided office supplies and assisted where possible. Several churches were involved in assisting refugees but, more on an individual basis. There was no network system in Pietermaritzburg in terms of who was doing what. KZNCC had tried to start a refugee committee but, the process was stalled due to the inability of the Zimbabwean community to appoint a leader. Assistance that had been offered was food parcels and old clothes however the PRC identified a primary issue to be address was the need for networking between organisations thereby creating a more effective 'assistance pool'.

Personal contact was made with LHR, who were interested in the idea of starting a branch office in Pietermaritzburg. This was exciting for the PRC as LHR are:

As a partner of the UNHCR we fund free legal counselling to refugees to ensure their legal protection and also to facilitate their successful local integration. We are part of a network of refugee service providers who offer social assistance to vulnerable refugees and asylum seekers. (Lawyers for Human Rights, 02 July 2007 Personal Communication)¹²

¹² Email Communication, Lawyers for Human Rights, 02 July 2007.

Sadly, the contact person is no longer working for LHR and it was back to 'square one'. In light of a link being created between the already well established refugee community in Durban and Pietermaritzburg research¹³ revealed that previous attempts had failed.

Heightened interest in the plight of refugees was sparked by the May 2008 attacks. As tragic and horrific as these attacks were, the outcome had a very positive effect for refugees in Pietermaritzburg. Public meetings were held whereby different stakeholders and key persons had a chance to speak out. Organisations that participated were:

Pietermaritzburg Agency for Christian Social Awareness (PACSA) (who later became the coordinator), KZNCC (original coordinators), the Umgungundlovu District Mayor Yusuf Bhamjee and his Executive Council; other key Municipal representatives; the SAPS; representatives of refugee associations; media representatives as well as NGOs such as Red Cross; Project Gateway; Lifeline and Sinani; and the KZNCC. Together these representatives would form a coalition to combat xenophobia in Pietermaritzburg. Initially the coalition was headed by KZNCC however PACSA later took on the role of spearheading the initiative.

4.4.6.1 Increase in Assistance

Compared to Johannesburg, Cape Town or Durban, Pietermaritzburg experienced very little violence at the height of the xenophobia attacks in May

¹³ Interview with the Refugee Pastoral Care in Durban, 15 October 2007.

2008. Xenophobia manifested itself more as intimidation, affecting the ability of foreign nationals to carry out their trade. Not many attacks were reported with SAPS. According to SAPS those attacks which were reported were not related to xenophobia. Although attacks and physical violence was low, intimidation of such attacks potentially taking place was strong. This meant that many did not go onto the streets and trade for fear of being abused. Lack of income caused by the inability to trade due to intimidation resulted in the need for food-parcels. The Coalition linked with two partner organisations: the Red Cross (provided a soup kitchen) and The Salvation Army (distributed food parcels). Vulnerable individuals and families were identified through foreign national group leaders, and the food was distributed for four weeks. The Coalition has started working with the UNHCR, Msunduzi City Council (MCC) and Black Sash, together with Home Affairs as well as Ward Councillors to start community education and interventions. This is to hopefully equip the refugee community with skills in aiding their own community as well as create awareness among the locals.

Post-May 2008, the hype and emotion surrounding refugees in Pietermaritzburg has died down. PACSA was very involved for five months after the xenophobic attacks. However, due to insufficient funds they could not continue with their involvement on a sustained basis.

However, PACSA still works with the PRC and will assist when able. The objectives of the coalition are to ensure that¹⁴:

- i) The refugee community is more active in interaction between South Africans and foreigners.
- ii) The PRC will continue to build institutional capacity and infrastructure to take forward its own transformation agenda.
- iii) The PRC has a sound strategy for events or partnerships towards creating positive perceptions of the foreigner community within Pietermaritzburg.
- iv) The PRC engages in advocacy with relevant government departments, to ensure improved service delivery and protection of the rights of its members.

The objectives are not an end; rather there is hope that continual progress will be made. The PRC itself is far more organised since these strategies have been put into place, such as: recently a Psychological Support Network was established whereby Lifeline and Rape Crisis liaised with Project Gateway to hold group trauma debriefing sessions for foreign nationals and counselling training. Refugees themselves have been taught skills in basic counselling to help with the trauma. This meets many needs that exist within the refugee community as refugees have had to flee from homes therefore, often undergoing severe traumatic events¹⁵.

¹⁴ Objectives identified during the coalitions meetings May/June 2008 with a report containing the four primary objectives.

¹⁵ Discussion with the Congolese Refugee Community Leader November 2008.

The PRC has made contact with several other organisations and there is a hope that a refugee office will be opened soon in Pietermaritzburg. A suitable venue has been identified. The office is to be housed within the Project Gateway property.

It is believed that the establishment of an office in Pietermaritzburg is fundamental to the wellbeing of refugees. The office will serve a number of purposes:

- Refugees have to report to the office so that numbers are always known;
- Those that wish to provide assistance would be able to contact the office directly to ensure that support given does not land in corrupt hands;
- A base for services provided to refugees, including legal;
- Act as a node for further networking to take place; and
- Serve as a monitoring base for the refugee community in Pietermaritzburg

Currently the refugees are in the process of holding workshops and training times to further equip themselves:

We need to teach each other new skills ... when we go home we need to be able to work. (Refugee correspondent 5, 6, 7)

The idea of internships was discussed with the PRC whereby refugees can learn new skills. Further education opportunities that are currently being set up are French lessons for children. When asked why not English a common response was: Our children learn English here, but over there [home] they need French. (Refugee Correspondent 6)

English lessons are already taught through the University of KwaZulu-Natal for free. This needs to be reviewed as many refugees are unable to attend as lessons run during the day and refugees cannot give up trading hours. Therefore, all refugees expressed interest in night classes.

4.4.7 Type of Assistance Required

There was no general agreement among the refugee community about what services and assistance was required. It was first noted that assistance across South Africa is lacking. A general, yet predominant view among the refugees is that there is a lack of assistance from the UNHCR and South African government:

We feel that the biggest problem is government itself. Yes it has signed the different agreements ... but no action. UNHCR is still the big boss so they need to come down more. All we know is that UNHCR says to government, this is the budget, government takes it and then what?
(Refugee correspondent 3)

Yet, the UNHCR states that their role in South Africa is a supervisory role. They assist the South African Government through capacity building (includes aiding in dealing with the backlog of applications). The UNHCR advocates on behalf of refugees and trains the immigration officers and government officials. Lastly, UNHCR does assist vulnerable refugee's social grants, study grants and financial means (UNHCR, 2007).

And, the role of government is determined by law:

South African law assigns refugees the social, economic, and civil rights necessary to ensure a life of dignity. These include the ability to engage in wage-earning employment, to obtain basic education and health care services, to access public relief and assistance, to be issued with identity papers. (CoRMSA, 2007:14)

However, the South African government offers no special assistance or privileges due to lack of financial capacity and, hence, would rather create an enabling environment.

Within the Pietermaritzburg refugee community there are two distinct groups: those asking for skills training and education, and those asking for financial handouts. The type of assistance required varied between refugees, especially between those who are younger and older. It was noted that all 'older' refugees, with children, were more concerned with developing skills, education and training. Whereas the 'younger', single refugees seek financial assistance.

The 'training group' was concerned for the wellbeing of the younger generation:

When we go home my child must know skills ... what is he going to do-sell things in the market? No, he must be trained; he must add value to his country. (Refugee correspondent 7)

It is felt that training and skills are more viable because many FBOs and Churches already run such programmes. However, physical (food, clothes,

money) assistance aside the most common response is that refugees want to be noticed, and supported in anyway possible.

4.4.8 The Role of the Church

Over the years Christians have adopted a wide and creative set of responses to those in need (de Gruchy, 2005). FBOs, Para-Church Organisations and Christian Churches are important actors in developing countries in terms of social, economic and political issues (Clarke, 2005). Religion has been acknowledged as a largely unseen force in many development and assistance responses (Marshall, 2003). Marshall (2003) states 5 ways in which religion can be beneficial:

- i) Trust from the community
- ii) Often has a direct role within the local community
- iii) Make a firm stand on moral and ethical views that often help the most marginal
- iv) Teach and promote morals and values
- v) Aid in bringing about unity

The Christian Church is being called upon to play an increasing role in nation-building, and economic and social development across the globe (Kamaara, 2000). The Church is one of the largest organisations in South Africa. Statistics show that 80 percent of the population is Christian (UNHCR, 2007). As the moral conscience of the country, the Church has a unique opportunity to force the state

to deal more effectively with social issues and injustice (Kamaara, 2000). Across South Africa it is evident that the Church plays a major role in assisting refugees, such as the Central Methodist Church in Johannesburg (The Citizen: 21/05/08).

There is a range of assistance offered by the Church to refugees, such as: food parcels, school uniforms, skills development and counselling. In KZN the most well know Church network is the Refugee Pastoral Care, run by the Catholic Church in Durban, at the Cathedral in Queen Street. Their main aim is two-fold: first to be a Church whereby individuals are met with teachings and secondly, to socially assist refugees (The Refugee Pastoral Care, personal communication, 2007)¹⁶.

Within the refugee community of Pietermaritzburg the only known groups assisting refugees are Christian FBOs and Churches, such as the Salvation Army, Solid Rock Ministries and KZNCC. Often the Churches that are involved are one's that have refugees as part of their congregation:

We help as that is what God has asked us to do. It is clear from the scriptures that we are to help our brothers and sisters who are acknowledged as 'the least of these. (Cardinal Wilfred Napier, personal communication 2007)¹⁷

¹⁶ Personal communication: Refugee Pastoral Care in 13 May 2007.

¹⁷ Personal communication via e-mail with the Cardinal Wilfred Napier 10 June 2007.

Christians need to be involved in some sort of action as the Christian life is about a “life lived in compassionate service to others, especially the vulnerable” (de Gruchy, 2003: 20).

The actual role of the Church is broad, some of the roles the Church is to play according to Kamara, 2000 and Musa, 2008 are:

- Serve as an advocate for the poor and marginalised
- Enable the construction of a just and more equitable society
- Spearhead values transformation and community organising
- Be not only material but also spiritual

The church is not only a place where material assistance is offered, but also spiritual support. Within the refugee community of Pietermaritzburg there are six separate church services run by refugees themselves, either in French or Swahili but often a combination of the two. All of these services run from different Churches with barely any networking between the respected church groups. Groups of people donate clothes or food to the different church gatherings with some receiving more than others. Also, each of these Church groups is able to access resources in a different capacity. Hence, a great need exists for refugees themselves to network among one another.

4.5 Conclusion

The problems facing refugees in Pietermaritzburg are, in general, the same problems facing many refugees' across South Africa. With Pietermaritzburg not being a large city, very little is done to assist refugees. When one takes a look at the life experiences of refugees it is marred with hardship, failure on behalf of the government (both country of origin and South African), extreme human rights abuses, constant fear, and a desperation for individuals to take a stand and help those in need, the refugees. The cause of refugees is well known: war, persecution, genocide and instability. Thus, to address the cause and to break the cycle that continues to drive people out of their countries of birth is a long-term goal, and perhaps a far-fetched goal. A more attainable goal is to investigate the state of refugees in South Africa and make the changes where needed. Many of the refugees are not asking for finances but time, and that is something that every South African citizen does have. Assistance in Pietermaritzburg is poor, a few Churches are slowly getting involved but, more need to. The PRC has made considerable progress in creating a platform where change can start happening. The refugee phenomenon is complex and requires a multi-disciplinary and integrated approach involving all spheres of government and civil society.

Chapter Five

Evaluation, Recommendations and Conclusions

5.1 Introduction

Due to ongoing conflict, poverty and human rights abuses, Africa has been and continues to be one of the major refugee producing regions worldwide. Conflicts between and within countries, over change in government and ethnic divisions, result in an increased abuse of human rights, mutilation of the worst kind, and streams of refugees forced to leave their homes (Awuku, 2005). Refugees are a permanent feature in the world, reminding one of the shortcomings of modern society (Haddad, 2008). Africa is home to a disproportionate number of refugees with almost every country either a source or destination for refugees (Hollenbach, 2008; Bailey, 2004). Refugees are a complex phenomenon and remain at the top of international debates, with asylum as a central issue (Gibney, 2004). The response across the world to the 'problem of refugees' is slowly becoming one of how to manage the situation, rather than solve it (Haddard, 2008).

The new South Africa is built on a rights based constitution and democracy. However, it is also a country portrayed in the media, across the globe, as attacking black African foreigners and setting people alight (The Witness, 19/05/08). This suggests that South Africans have moved far away from the vision that was set into motion post-1994, a vision of human rights for all. "A country's human rights record is judged by how far it respects and protects the

human rights of the most vulnerable” (SAHRC, 2004: 5). Refugees are one of South Africa’s most vulnerable groups.

This chapter presents an evaluation of the main findings of this study on the basis of the conceptual framework. Recommendations are also advanced as they highlight areas where change or intervention is mainly needed.

5.2 Summary of Key Findings

The aim of this study was to understand life histories and experiences of refugees in Pietermaritzburg, and to determine the level of assistance and support available for refugees. The objectives of the study are listed below:

i) Life histories of refugees

The life histories approach is one type of narrative interview, with the intention to learn about the individual’s experience; it is a record of personal experiences, from the past as well as present social events (Payne and Payne, 2004). The life histories of the twelve refugee correspondents opened the researcher, and reader, to an unimaginable life: A life fraught with pain, fear, death, destruction and seemingly little hope. These refugees were forced to flee due to human rights abuses of the worst kind, passing through as many as ten countries before reaching South Africa, many hoping for the promise of freedom. However, in South Africa, refugees have experienced very little freedom but rather a constant fear of being attacked because he or she is not South African.

ii) Experiences of refugees in South Africa

The study revealed the primary concern facing refugees in Pietermaritzburg is the lack of documentation (issuing of permits and IDs). It is this lack of documentation and the delay in obtaining the necessary documentation that is the cause of insecurity and many human rights violations faced by refugees in Pietermaritzburg (Wagacha and Guiney, 2008). The rights that are being violated are upheld by international conventions and the South African Constitution, and include entitlements to: education, social security, public assistance and work (O'Neil, 2008). It goes without saying that the 'reality' of the refugees' experiences is a tale of violation of individual human rights.

Key concerns facing refugees in Pietermaritzburg are:

- Government and/or UNHCR: this is seen mainly in the lack of documentation received, and the delays in receiving necessary documentation. There is general mismanagement in the DHA including: corruption, ill treatment and lack of transparency. Other problems include initial access to asylum procedures, delays and irregularities in the status determination process, inadequate resources dedicated to addressing the massive backlog of asylum claims, lack of access to documentation, and unlawful harassment, arrest, detention, and deportation of asylum seekers and refugees.
- Xenophobia: an "anti-foreigner hostility" that often results in prejudice and abuse (Jacobsen, 2005:45), where the foreigner becomes the enemy and the

scapegoat for lack of resources and for the inability of government to deliver. This has resulted in harassment, murder, violence and intimidation for refugees across South Africa. Many Pietermaritzburg citizens are not overtly violent towards refugees, but at the same time they are not willing to help refugees when there are so many South African citizens who need help. Intimidation from locals inhibited many refugees from working and trading and limited many livelihood options.

- A lack of resources and assistance: access to social services, housing, health care and support structures are challenges for refugees in Pietermaritzburg. There is no one organisation dedicated to supporting refugees. Many organisations provide assistance on an *ad hoc* basis and are not a dependable option.

iii) *Legal policy processes to determine refugee status*

The legal process is ineffective in tackling the massive numbers of asylum seekers in the country. At the beginning of 2007 at the Durban RRO there were 27 539 applications pending out of the 35 137 applicants who had applied for refugee status. The Refugee Act, on paper, is progressive and promising for the refugee. However, in reality the legal process is hardly followed. Processes that are meant to take three months can take close to a year. Without resources South Africa will not be able to effectively manage the refugee situation.

iv) *Systems for effective assistance and the role of the Church*

Within Pietermaritzburg there are two well known organisations: PACSA and KZNCC (both Christian FBOs), which are well connected and have the ability to operate large coordinated efforts to support refugees. Sadly, it is the lack of human and financial resources that seem to limit such operations. Pre-May 2008 there was generally little thought to the plight of a refugee in Pietermaritzburg although today many more people and organisations are looking at what could be done. The Church within Pietermaritzburg provides the most logical assistance structure. Many are involved in assisting the poor and marginalised. There is a need for the Church network to incorporate the African foreign national, the refugee.

This study acknowledges that the nature of forced migration is complicated and solutions to many of the problems that refugees are faced with are complex. The study advocates an integrated approach to address the problems of refugees, where all spheres are involved: social, political and economic, and the Church has an increasingly prominent role to play.

5.3 Conceptual Reflections

Modern society has become desensitised to the massive human rights abuses which cause thousands of people to flee their homes. No longer is the global community stirred to help their neighbour (Hollenbach, 2008). Rather, there is burden shifting of who should do what (Handmaker, 2002). The majority of the

world's refugees are found in developing countries, which have serious socio-economic challenges (O'Neil, 2008).

The abuse of human rights does not stop for the refugee once he or she has fled their country of birth but, are part of daily life in their new country of refuge. Regardless of the geography, "the greatest challenge confronting the international community is to link the task of refugee protection and human security to the broader defence of human rights" (Loescher, 2004: 31). Refugees are the forgotten victims of human rights violations. These violations, causing hundreds and thousands to flee, have not been adequately addressed (Hollenbach, 2008).

It is the current refugee phenomenon that brings to the fore the very tension between "the state prerogative to exclude and the human rights imperative to include" (Haddad, 2008:1). Human rights present a cornerstone to understand and address the plight of refugees:

Advocacy will be more effective if it is grounded in the fundamental human rights of displaced persons, and if the conditions that impeded or promote these rights are better understood through careful social and political analysis. (Hollenbach, 2008:3)

The present study contributes to the emerging sub-discipline of Geography and human rights. Human rights have a firm place within the discipline of Geography, as rights are often about "access to space or place" (Blomley and Pratt, 2001:

151). Increasing interest is being raised in the geography of human rights. This interest has been influenced by globalisation, opening of global markets, denationalising territory and new geopolitical relations (Maharaj, 2005). It has been suggested in order to realise geography's "potential as a scholarly discipline examining the human condition, geography needs to focus on human rights...Likewise, the study of human rights...needs the nuanced sensitivity of geography" (Honey, 2004:732). Human rights require the consideration of all threats to "human dignity under a range of changing social conditions" (Brysk, 2002:41). This would include plight of refugees in South Africa.

The study of the life stories and experiences of refugees in Pietermaritzburg is part of the growing body of research on refugees in South Africa. The findings of this study are similar to other scholarly work such as that of Amisi and Ballard (2005), Groot (2005) and Landau (2004). Similar to the Pietermaritzburg study, the researchers found that refugees in South Africa face many hardships such as: few livelihood options in which to be able to 'fully integrate' into wider society; inability to access services such as healthcare; lack of documentation with increasing backlogs; continuous delays in receiving permits and general lack of efficiency by the DHAs, as well as xenophobia expressed by locals, police and government officials.

There is a range of research issues within the context of forced migration across Africa. Some of the research has included studies on forced migration and

human rights: Zlotnik (2003) and Amnesty International (2002). Schmidt (2003) reviews the issue of camps versus settlements, a range of migration experiences are investigated in Baker and Aina (1995) and Adepoju (1995) investigates migration in its historical perspective across Africa. And, this study adds to the growing body of research on refugees' rights and experiences in Africa.

The current situation facing South Africa and KwaZulu-Natal alike are massive backlogs in asylum claims, lack of human and financial services, and an ever increasing number of asylum seekers in South Africa, which globally has received the largest asylum claims in 2007 (UNHCR, 2007). The approaches used by different groups and organisations to assist refugees are often *ad hoc*, tackling immediate visible concerns. There is a need for stronger, holistic approaches to highlight the plight of refugees (Hollenbach, 2008). The requirements of urban refugees are diverse (Wagacha and Guiney, 2008), and the social and spatial dispersion of refugees creates a call for a more complex, coherent assistance strategy. It requires the support of the whole community to ensure successful management and protection (Landau, 2008). If one is to make recommendations for the betterment of the lives of refugees in Pietermaritzburg, then first and foremost it needs to be based on research, and secondly, one needs to be aware that it is unlikely that all urban refugees will be assisted. However, co-ordination between NGOS, church-based actors and the government is an essential prerequisite (Hollenbach, 2008; Landau, 2008). The work of Hollenbach (2008) has emphasised the role of the church as an

assistance structure. Hence, religious institutions, in both instances are seen as primary assistance providers with the potential to be very effective in helping to manage the refugee situation in countries across the globe.

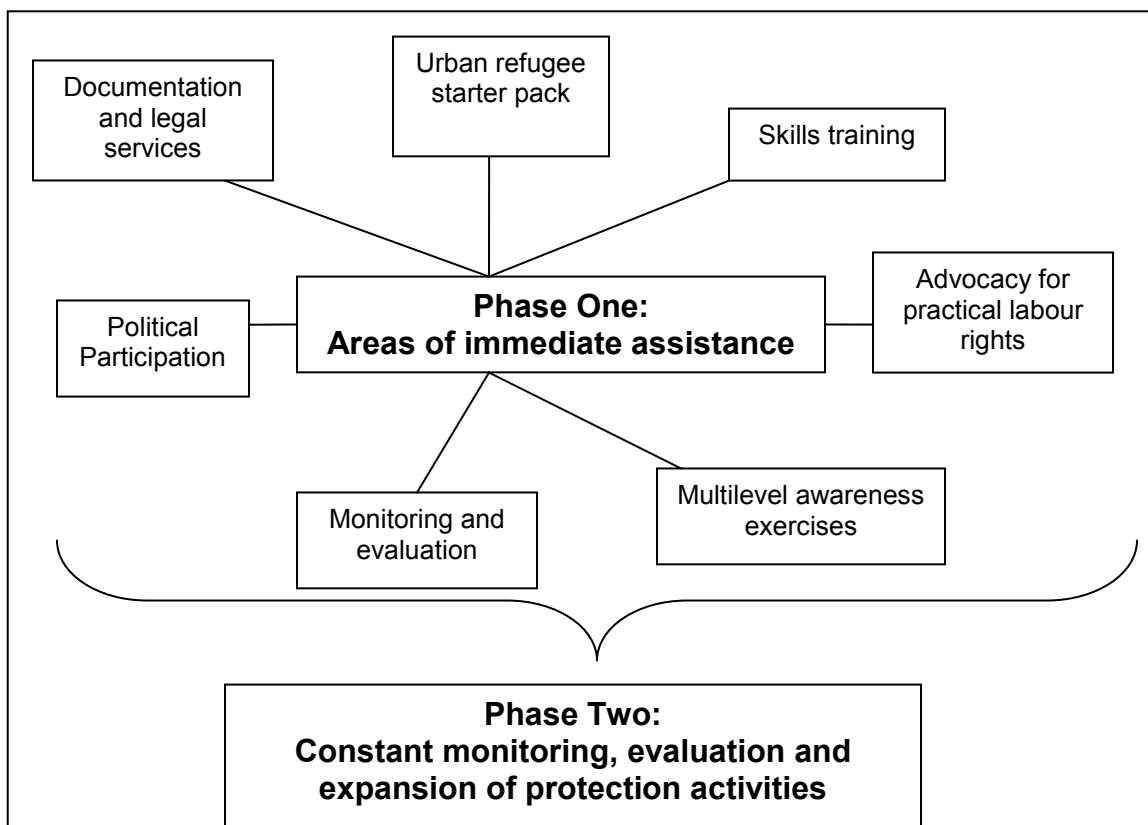
5.4 Policy Implications

The findings of this study have many policy implications which need a degree of attention not only from government but also other stakeholders. Government acknowledged that since it did not have the financial capacity to provide material assistance to refugees it would facilitate the successful integration of refugees by legislative, regulatory and administrative measures (Jacobsen, 2005). The private sector, Government sector, NGOs, FBOs and the local community need to work together for successful integration to take place. The challenges that face refugees especially in light of the DHA are clear and have been well documented. The solution is not halting migration, as this is impossible, but rather managing it. What is being called for is a “sustained reconsideration of how the country addresses migration and other concerns of social importance” (CoRMSA, 2008:6).

Recommendations advanced from this study are influenced by Landau’s (2008: 109-115) “Capability-Based Approach”. This approach “imagines refugees as effective agents in their own welfare who – like other potentially vulnerable groups – may require assistance to overcome internal and external obstacles limiting their capabilities” (Landau, 2008:110). The approach is based on the

premise that as there is an improvement in individual's rights and freedom so too will there be an improvement in everyone's life (Landau, 2008). Thus, Landau suggests a two-phase strategy for urban refugees (see Figure 5.1); it is not a universal framework but rather based on individual's experiences. The limitations of such an approach are that it equates protection of refugees with capability, and focuses on individual environments. The approach is also geared to maximising the freedom and integration of refugees, which goes against anti-immigration policies and laws. It is only effective in urban areas where immediate assistance is an option and where constant evaluation and monitoring can take place. The urban area is viewed as a durable solution for the refugee phenomenon and the capability-based approach seeks to make the city 'work' for the refugee (Landau, 2008).

Figure 5.1: The Capability-Based Approach



(Source: adapted from Landau, 2008:110)

It is on this capability approach, outlined in Figure 5.1 that the following recommendations are proposed, within the context of the study, for fostering a positive outcome to the complex nature of forced migrants.

5.4.1 Awareness of Forced Migrants in Pietermaritzburg

An understanding of the nature of forced migration and the life stories of individual refugees reveals that refugees are not merely here to ‘take our money and jobs’, that one cannot simply equate refugees to a definition that has been drawn up somewhere, but rather one needs to try and understand their

experience to effectively and efficiently draw up solutions. Assumptions about migrants' effects on the country's economy, society, and politics have dominated the response of government and South Africa as a whole, leading to various actions that in effect exacerbate the problem and worsen the life of forced migrants (Crush, 2000; Landau, 2004; Peberdy, 2001). Along with this, the DHA continues to treat 'undocumented' and 'illegal' migration as the one-and-the-same. However, due to the DHA inefficiency and the huge backlog being experienced, country wide, a direct distinction needs to be made between the different categories of migrants as many asylum seekers are being treated as illegal immigrants (CoRMSA, 2008).

The need for understanding the plight of a refugee is highlighted in Pietermaritzburg whereby pre-May 2008 the general public knew very little about refugees in Pietermaritzburg, including the Local Municipality¹⁸. Pietermaritzburg is not one of the major refugee-hosting cities of South Africa. However, it does border Durban (housing one of the five RROs in South Africa) (see Figure 3.1) and has an ever-increasing number of refugees; close to 2000. Hence, due to its rather unnoticed refugee population very little is known about the refugees of Pietermaritzburg. This, however, is common to medium and small towns of refugee-hosting numbers. In general:

In small or medium towns ... local officials and government departments had virtually no information about the number or profiles of non-citizens

¹⁸ Based on personal communication with the Msunduzi Municipality, May 2007.

resident in their areas. Most did not consider foreign migrants to be part of their constituencies or mandates. (CoRMSA, 2008:64)

Not only is there a general lack of information about refugees in Pietermaritzburg, but there is also a general lack of public awareness of the rights of refugees. Many South African business people do not accept the refugees maroon ID booklet, or think the refugees have made it themselves. This perception has not only been found with business owners but also in government institutions (CoRMSA, 2008). However, post-May 2008, much has changed and there is greater awareness about the challenges facing refugees and migrants. The need for a broader and far more detailed response has been acknowledged. Therefore, the Anti-Xenophobia Coalition in Pietermaritzburg has begun to determine who the refugees are and their numbers.

A need still exists for a general understanding and awareness about refugees to be raised in public consciousness. Understanding cannot sit with a handful of concerned stakeholders but, needs to be city-wide. Not only an awareness of refugees, but a knowledge of refugees' rights and the associated obligations are also important. Information needs to be readily available and easily accessible about refugees in South Africa as a whole, and Pietermaritzburg in particular. This will hopefully be aided by the presence of the PRCs office.

South Africa, together with the UNHCR, prescribes:

Refugees are accorded the same rights as South African citizens - to basic education, basic health care and the right to trade or work. This does not extend to social grants at this time. Their rights are protected by our constitution. (PACSA, 2008:2)¹⁹

Due to the fact that South Africa created the 'urban refugee system', local trade is often the only means for an income. Thus, if intimidation and violence persist, a dire situation is created for the refugee when he or she is not able to earn a living. Amongst the South African population it is important that knowledge is created and awareness which will hopefully lead to tolerance of refugees.

5.4.2 Assistance and Networks

In the larger cities such as Durban or Cape Town it is evident that a support structure exists for refugees largely driven by the Church or by the University. In the case of Cape Town, booklets²⁰ have been published that are aimed specifically at the refugee. These booklets contain information such as:

- How to apply for status,
- Rights of refugees and asylum seekers,
- Where to find shelter,
- Where to receive trauma counselling, and
- Where to receive legal aid.

¹⁹ PACSA newsletter sent via e-mail 25 August 2007.

²⁰ Cape Town law clinic handouts received by the LHR via e-mail in March 2008.

In Pietermaritzburg this does not exist. The reason for this is two-fold. First, Pietermaritzburg is a relatively new refugee-hosting city, and secondly, there is no organisation or body that is specially aimed at aiding refugees. Rather, several organisations provide aid and assistance when necessary. However, this is not a permanent arrangement, and hence refugees cannot rely on these measures. All organisations, such as the Salvation Army, Red Cross and PACSA are geared toward helping the poor and marginalised in general, but are not able to adequately address the complexity of the refugee situation. Refugees are in need of a number of services: training and education, food and financial assistance, counselling and legal aid, all of which make up basic human rights (O'Neil, 2008).

Although the PRC is in the initial phase of building institutional capacity and infrastructure, the greatest challenge will be the task of driving the process forward. Hence, for this reason it is important that there is networking with already established refugee organisations, such as those in Durban. A link needs to be created between Durban and Pietermaritzburg, whereby Durban will support Pietermaritzburg. This may be in the form of a mobile office that will service Pietermaritzburg monthly (in terms of status determination issues).

A networking structure is important and beneficial for a number of reasons:

- i) Durban has the organisational structure in place and is already networking,

- ii) It is costly for refugees to get to Durban for every legislative issue,
- iii) There is a growing number of refugees in Pietermaritzburg ,
- iv) It is important to acknowledge and support Pietermaritzburg as a refugee hosting city.

Durban is home to one of the five national RROs and it receives much of the attention and assistance in KwaZulu-Natal regarding refugees. Durban is also home to many of the larger NGOs who are primary providers for refugees such as Lawyers for Human Rights. Pietermaritzburg has no such structures and there is a need for a long-term presence and assistance to be established. Thus, an office, not necessarily open every week but, at least monthly, needs to be set up whereby refugees can seek assistance. The office that the PRC has initiated would provide a suitable venue. It is important for refugees and locals to know where to go to inquire about refugees in Pietermaritzburg. Too often, support is inhibited due to the lack of sound and trustworthy structures. However, not only does a network need to be set up between Durban and Pietermaritzburg but also networks need to be set up in Pietermaritzburg.

The PRC is a suitable organization which could potentially play a primary role for supporting refugees in Pietermaritzburg. The PRC is recognized as a formal and legal body, it is home to a committee that is reflective of the refugee community of Pietermaritzburg, in that it has at least one representative from the different communities. Also, the PRC is not affiliated to any one Church organization or

any faith based group. The reason that this has been highlighted, is due to the different faith groups in Pietermaritzburg. In order to remain trustworthy and transparent the PRC will need to be accountable to a larger and perhaps more well known organization, such as: PACSA, KZNCC or Project Gateway (this is where the office will be situated).

5.4.3 Department of Home Affairs

There have been calls for an improvement in the efficiency of the DHA management of the asylum determination procedure, which has so far led to incredibly long delays, and a substantial backlog in applications. There are not enough resources (especially staff) to process the steadily increasing number of applicants, and standards of administrative justice are never reached. (Handmaker, 2001; NCRA, 2006). The DHA along with the status determination procedure are solely responsible for the granting of refugee status. The ongoing issue of the lack of capacity of the DHA often brings the lives of refugees or asylum seekers to a stand-still. A request has been made to the Durban DHA to send a mobile unit to Pietermaritzburg regularly, as travel to Durban is often beyond the financial means of refugees, and people can queue for days to get essential documentation.

The recommendations proposed by the CoRMSA (2008:10) to the DHA are recommended for this study:

- Continue to pursue procedural reforms in the arena of refugee reception to ensure that prospective asylum seekers are not unduly exposed to arrest and detention;
- Standardise and/or extend the validity period of Section 22 asylum seeker permits and print the forms on a durable medium;
- Significantly bolster the Counter-Xenophobia Unit's funding, its level of authority within departmental structures, and its powers to investigate instances of violence, conduct conflict resolution and initiate interdepartmental responses at a local and provincial level;
- Provide training for refugee status determination officers and introduce measures to specifically cater for cases of gender-based persecution. Keep records and statistics on cases involving gender-related persecution, or where gender is an aspect of the claim, as well as the decisions on those claims, in order to track patterns in decision-making.

5.4.4 The Church

South Africa is a country with 80 percent of its population following Christian beliefs that inform many moral and ethical principles (UNHCR, 2007). Yet it is a country marked by the tragic events of May 2008 when 62 people were murdered, 670 injured and tens of thousands of foreigners were left homeless and displaced (HRW, 2008).

The study revealed the individual entities assisting refugees do not network among themselves, instead what is seen is that many of the entities have no such knowledge of one another. If efficiency is to be reached, there needs to be unity of purpose to support coordinated efforts. It is here that the Church can be useful. The Church often has such networking structures in place, and has a responsibility to support its community (Cardinal Wilfred Napier, 2007)²¹. Therefore, if refugees make up the Church's broader community they [the Church] need to be involved. The Church is a powerful voice in moral transformation and advocacy. It has the ability to raise awareness and involvement in many areas and has direct access to many resources and services. Thus, the Church in Pietermaritzburg needs to come to the assistance of its community and not turn a blind eye, as many do, but seek to transform the often dire situation and help the 'least of these'.

5.4.5 Refugees as Agents of Change

Refugees in Pietermaritzburg are a hidden population and often when given the choice, out of fear, will choose to remain so. Pre-May 2008, refugees had a tendency to withdraw and avoid conflict, but currently the refugee leadership is involved in pro-active discussions on how change (attitudes of locals and non-locals and improved integration) can happen and suggest ways in which refugees can share their skills with locals. Thus, as they do in Durban, a forum needs to be set up where refugees along with interested parties meet to discuss problems in Pietermaritzburg. This forum could meet every quarter so as not to

²¹ Personal Communication via email, 10 June 2007.

exhaust the organisations involved. It is felt that this would be beneficial as constant communication is needed if support is to be effective, if refugees are to be managed and not controlled. One cannot manage refugees if one does not know their needs, challenges and potential.

Due to the strained relationship with the SAPS, often violence or other crime against refugees are not reported. The reason for this is that refugees themselves often fear the police. This problem has recently been raised with the SAPS. The result was a positive one, whereby working relationships were established with heads of police stations. However, a need still exists for cases of police brutality against refugees to be investigated and for serious action to be taken when this does occur. It was possible that some members of the SAPS were prejudiced and harbour xenophobic tendencies.

The last recommendation is for the PRC that continued leadership within the refugee community is maintained and remains a primary aim of the committee. This means that the PRC must strive to represent the refugee community within Pietermaritzburg as best it can. This is important for the refugees of Pietermaritzburg because then the refugees will depend less on outside organisations and more on the PRC as a whole.

5.5 Conclusion

Refugee's life histories show a constant trend: hardship, fear and human rights violations are threaded throughout. This study revealed that the challenges

refugees in Pietermaritzburg face were not new. With the increase in asylum claims, particularly those from Zimbabwe, the challenges and problems currently experienced are being exacerbated. Throughout this study a feeling of inadequacy²² persisted, as many hardships experienced by refugees was due to the DHAs inability to meet the refugees needs, an issue that has been well documented. However, when building a relationship and giving time to the refugees of Pietermaritzburg it is clear to see that to help the plight of a refugee is to simply act where one can.

As a researcher, the most difficult part of research is the moral dilemma of when to remove oneself from the research (raised in Chapter 3). The answer to this is to provide/establish a structure whereby the refugee is the active agent in his or her setting and not dependent on the researcher or another party. In the case of this study the researcher achieved this by aiding in the formation of the PRC.

At the beginning of the research there was a clear need for coordination and organisation within the refugee community. The research served as a catalyst, and by the end of the study this had been cultivated, although the need exists for this to be sustained. Hence, leaving the research setting does not prove to be as problematic as initially anticipated. A framework has been established upon which the refugees can build. As the researcher departs, what is left behind is a PRC that has clear goals, a representative body, in the final stages of setting a

²² An inadequacy from the researcher to achieve a positive outcome was often felt as many of the challenges are within the DHA.

permanent office from which to work and a body that is slowly beginning to network with others, PACSA has proved to be invaluable. The refugees need to affiliate themselves with the PRC and to make their needs and challenges known. The PRC needs to be a voice for all refugees and not just a few.

Refugees in Pietermaritzburg face similar problems as refugees throughout the country. This study shows that Pietermaritzburg needs to be included in discussions dealing with assisting and managing refugees of KwaZulu-Natal as an ever increasing number of refugees, with roughly 2 000 found in the city. Hence, there is an already large population of the country's most vulnerable not receiving assistance and facing many human rights abuses in a country that prides itself on justice and equality for all.

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Appendix

To include in your story:

- County of origin
- What age were you when you left home?
- What did you do before you had to flee? Work, study? If you did study, what did you study?
- Do you still have family back home?
- What forced you to leave?
- How did you end up in South Africa, and in Pietermaritzburg?
- Why South Africa
- Could you speak English before you came?
- If not, how did you learn?
- How long have you been in South Africa for?
- How long have you been in Pietermaritzburg?
- Did you get help and assistance when you arrived? And is so from who and what?
- How do you survive now? And how to you earn money?
- Does anyone assist you now? (e.g. family, friends, Church)
- If you are in trouble where do you find help?
- Do you in love in or out of town?
- Do you share a room with anyone, if so how many?
- If you have a family, do you have children and do they go to school? How are fees paid?
- Religion? Are you part of a local gathering?
- What are the problems that you face?
- Is it easy to receive social services, e.g. health care, legal advice?
- What would you like to be done?
- Is government or UNHCR doing enough?
- What was the application process like for you?