

REFUGEE

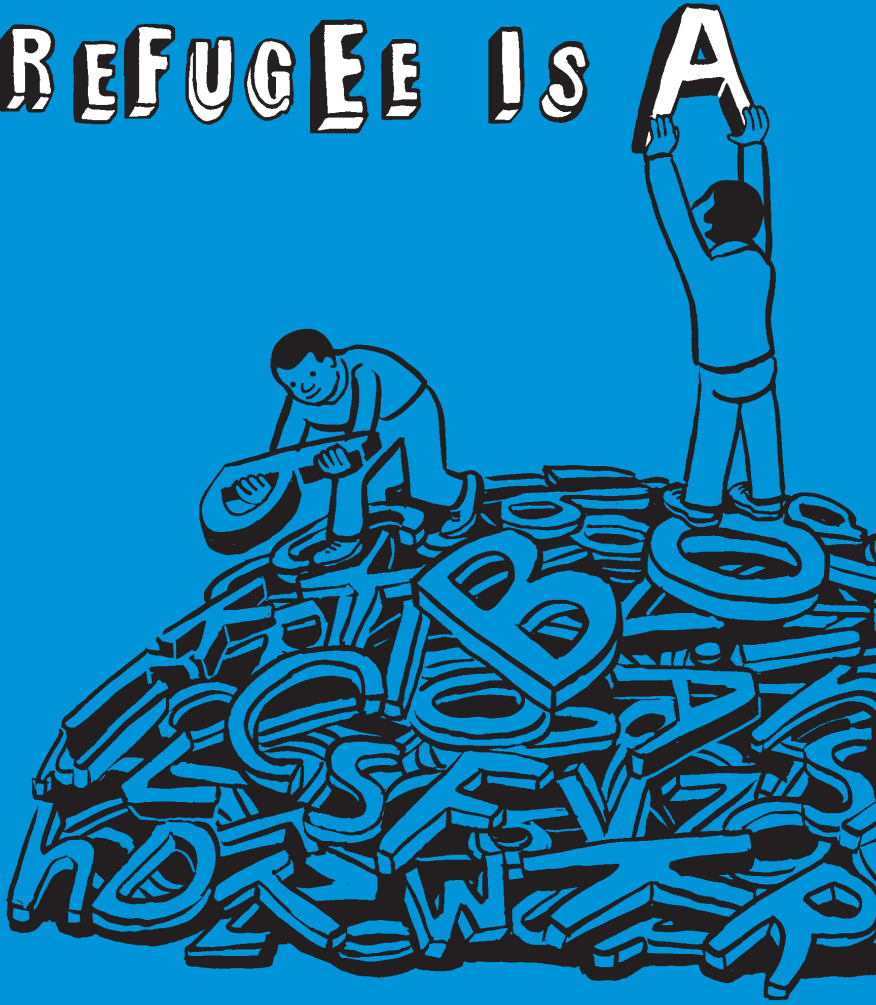


Information Guide 2009



Lawyers for Human Rights

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How to use this guide

The Guide is divided into two parts:

The first part provides important information on how to apply for asylum and seek legal assistance, where to find material assistance, how to access social assistance such as health, education, employment, trauma- and psychological support both from government and non-governmental sources. It also provides general information about South Africa.

The second part consists of a detailed directory of the relevant government departments, international organisations, non-governmental organisations (NGOs), and community-based and religious organisations offering assistance to the refugee community in South Africa.

Please note that the South African government's policies and practices may change. Please check the Lawyers for Human Rights (LHR) website, www.lhr.org.za, for the most up-to-date information.

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Acronyms and definitions

Acronyms

- DHA → Department of Home Affairs
ICRC → International Committee for the Red Cross
RRO → Refugee reception officer

Definitions

- **Asylum seeker:** A person who has lodged an asylum application with the Department of Home Affairs and who is waiting for a decision on refugee status
- **Department of Home Affairs (DHA):** The South African government department responsible for the administration of asylum applications and refugee matters
- **Durable solution:** Long-term solutions to problems experienced by refugees, generally involving movement back to home country or third country of asylum or integration locally
- **Eligibility determination form (form BI-1590):** The form you have to fill out the first time you report to any of the seven refugee reception offices in the country
- **Family reunification:** The bringing together of members of the same nuclear family with the help of the UNHCR and/or the ICRC after approval by the DHA
- **Family tracing:** The attempt to locate and link up members of the same nuclear family (father, mother, brother and sister) with or without the help of the UNHCR and/or the ICRC
- **Immigration Act:** The new law that has replaced the Aliens Control Act. This law regulates who may enter South Africa and how and also covers deportations
- **Non-refoulement:** The fundamental principle that prohibits states from returning asylum seekers or refugees to countries where their lives and freedoms may be threatened
- **Permanent resident:** A person who has been given permission to live in South Africa on a permanent basis
- **Persecution:** Severe violation of human rights for reasons of race, religion, nationality, political opinion or membership of a social group
- **Prohibited person:** A person without any legal documents allowing him or her to stay in South Africa lawfully. It can also cover people who are not allowed in SA such as deportees or people with infectious diseases.
- **Recognised refugee:** A person who has been granted refugee status in terms of section 24 of the Refugees Act
- **Refugees Act No.130 of 1998:** Law passed by the parliament of South Africa that governs the treatment of refugees in the country
- **Refugee:** A person who is forced to flee his/her country due to a well-founded fear of persecution or disasters of human origin such as armed conflicts, civil upheavals and generalised violence
- **Relocation:** An internal transfer of a refugee or asylum seeker from one part of South Africa to another, with the help of the UNHCR
- **Resettlement:** The relocation of a refugee from South Africa to a second country of asylum with the approval of the UNHCR and the country of resettlement
- **Section 22 permit:** Temporary, renewable permit, described in Section 22 of the Refugees Act, which is issued to asylum seekers while they await a decision on their asylum application and allows the bearer to reside in South Africa and to work and study
- **Section 24 permit:** Renewable permit, issued in terms of Section 24 of the Refugees Act, which grants refugee status to the bearer and allows him/her to reside in South Africa for a period of two years
- **Temporary resident:** Person with a legal permit that allows him or her to stay in the country for a limited period of time. Tourists, foreign students and business people would typically apply for temporary resident permits
- **The Standing Committee for Refugee Affairs:** Committee that reviews any refugee applications that have been rejected on the basis of being manifestly unfounded and that provides certification that a refugee will remain a refugee indefinitely for the purposes of applying for permanent residence
- **Unaccompanied minor:** A child under the age of 18 who is in South Africa without the company of his/her parents or guardians
- **Undocumented migrant:** A person who is not in possession of the requisite visa or residence permit that is required to be in the country legally
- **UNHCR:** The United Nations High Commissioner for Refugees is an international organisation mandated to provide international protection to refugees and to promote long-term durable solutions to their problems
- **Voluntary repatriation:** Voluntary return of refugee from country of asylum to country of origin

Violence against women and children



- Every woman and child has the right to an environment free from physical, verbal or sexual abuse
- All such abuse towards women and children should be reported to the police
- A protection order can prevent further violence

Violence against women and children is a major health and human-rights concern. The definition of violence in this instance includes intimidation, physical, sexual or verbal abuse of women, as well as the threats of such acts, whether they occur in public or private life. It is also considered to include the deprivation of women's liberty.

Men often abuse women and children when they feel angry or powerless. They might also feel that women and children are the property of their husbands, fathers and brothers. Some women and children may accept violence and abuse because they believe violence is an expression of love and that the man's authority cannot be questioned. Abusers are not always men – women can abuse other women too.

All abuse of women and children is illegal in South Africa, no matter who the abuser is.

Reporting cases and laying a criminal charge

If you or your child suffers any form of abuse, you should report the incident to the nearest police station. The police will assist you in

opening a criminal case. The police will ask you to make a statement. They will then give you a case number and assign an investigating officer to your case.

Most police offices have special units for domestic violence, sexual offences and child protection. A police officer will assist you with the case and refer you for a medical examination and counselling. A police officer must escort you through the process.

It is important that you go to the police station that is closest to you. Otherwise, your case may be transferred to the closest police station, which may slow down the processing of your case.

Getting a protection order

If you are afraid that the violence will continue or if you feel threatened at all, you can go to a magistrates' court to get a protection order, which is a directive from the court to your abuser to stop abusing you, to ask him or her to stay away from you or to get this person evicted from your home. You do not need a lawyer to get a protection order.

When you go to court, take any documents that you feel will strengthen your case; these can include medical reports, photographs of the injuries you sustained during abusive incidents or other evidence.

If the magistrate believes there is enough evidence of abuse, he or she will issue you with an interim protection order and provide a date when you have to return to court. The sheriff of the court or the police will serve the protection order on the abuser.

The magistrate will also give you a suspended warrant of arrest that you can use to get the abuser arrested if he or she disobeys the order after it has been served on him or her.

On your return to court, both you and the abuser should be present, and the court will hear the facts of the case. Following this hearing, the interim order should be confirmed and you will be issued with a final protection order. If the abuser fails to abide by this order, it might result in his or her arrest.

Help for abused women and children

A number of women's and children's organisations provide legal assistance free of charge to abused women and children. Call the toll-free hotline 0800 150 150 that deals with Violence Against Women and Children to get advice and counselling.

Trafficking

In basic terms, human trafficking can be described as a form of modern-day slavery in which people are recruited and transported to another country under false pretenses and are then exploited and forced to work without the option of leaving that situation. Trafficked victims are lured with false promises of good jobs and better lives, and then forced to work under brutal and inhumane conditions.

The people involved in forcing individuals into trafficking are usually dangerous and should not be confronted. If you do come across someone who has been trafficked, you should immediately contact your local police station or the toll free number of the International Organisation for Migration (IOM) for assistance at 0800 555 999.